

**LE SAUK TOWNSHIP  
STEARNS COUNTY, MINNESOTA**

**LE SAUK TOWNSHIP CODE**

**Adopted**

**Adopted August 8, 2017  
(By Ordinance No. 17-02)**

**Original Effective Date  
August \_\_, 2017**

**Amended**

**October 24, 2020  
(Ordinance No. 20-04)**

**February 28, 2023  
(Ordinance No. 23-01)**

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## **CHAPTER I GENERAL PROVISIONS**

100.01. **Title.** This codification of the ordinances of the Town of Le Sauk (“Town”) may be referred to and cited as the “Le Sauk Township Code.” It may be referred to in this codification as “the Code”, “this Code”, or “this Code of Ordinances”.

100.02. **Purpose.** The Town of Le Sauk has, from time to time, passed various ordinances which established various regulations, restrictions, and requirements, and imposed penalties for the violation of such ordinances. The Town desires to enact this Code in order to have the provisions of all such ordinances, which exist as of this date, or are hereinafter adopted, brought together into a single codified set of ordinances to ease reference, avoid duplicate provisions, and enhance access to these regulations by the public. The Town is authorized by Minnesota Statutes, section 415.021 to adopt this Code of Ordinances.

100.03. **Rules of Interpretation.** The following rules shall apply to the interpretation and application of this Code:

Subdivision 1. **Adoption by Reference.** Statutes, administrative rules, or regulations of the state of Minnesota and codes and ordinances adopted by reference in this Code are adopted pursuant to authority granted by Minnesota Statutes, section 471.62. Such references are the most current versions of those documents and shall automatically include any amendments made thereto and any successor provisions without further action by the Town Board, unless expressly provided otherwise in this Code. Furthermore, such references shall serve to incorporate those statutes, rules, or regulations into this Code by reference, including such other provisions that are necessary to give effect to the provisions expressly adopted by reference, to the extent necessary to achieve the intent and purposes of this Code. However, such incorporations are intended only to give effect to this Code and are not intended to make the Town responsible for the administration or enforcement of the referenced statutes, rules, or regulations beyond any enforcement action that may be initiated under this Code.

Subd. 2. **Relation to State Law.** It is the intent of the Town Board that the provisions of this Code are the fullest exercise of the regulatory and other powers granted to it by state law. Where this Code imposes more stringent regulations or standards of conduct than contained in similar provisions of state law, rule or regulation, it is the intent of the Town Board that the provisions of this Code prevail over that state law, rule, or regulation to the extent permitted by law.

Subd. 3. **Headnotes, etc.** Chapter, section, subsection, and subdivision headnotes, titles and cross references are not substantive parts of this Code, but are instead merely intended to expedite and simplify its use.

Subd. 4. **Minimum Requirements and Strictness.** In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. Where the standards, regulations or requirements imposed by any provision of this Code are either more or less restrictive than comparable standards, regulations or requirements imposed by any other applicable ordinance, rule, statute, law, or

regulation of the Town or of any other governmental entity, the ordinance, rule, statute, law or regulation which imposes the more restrictive condition, standard, regulation, or requirement shall apply in addition to the provision of this Code. In the event of any conflict between this Code with any private restrictions, protections or covenants, the provisions of this Code shall be met. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other powers granted by state statute.

Subd. 5. Severability. If any section, clause, provision or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular person, property, building or structure, such judgment shall not affect the application of said provisions to any other person, property, building or structure not specifically included in said judgment.

Subd. 6. Examples Listed. The listing of examples to further explain a term, concept, requirement or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited.

Subd. 7. Specific words.

- (a) The singular includes the plural, and the plural the singular;
- (b) The present tense includes the past and future tenses, and the future the present;
- (c) The word “shall” is mandatory, and the word “may” is permissive; and
- (d) General words are construed to be restricted in their meaning by preceding particular words.



## **Section 105 - Miscellaneous Provisions**

105.01. **Effect on Past Ordinances.** All ordinances previously adopted by the Town Board related to one or more matters specifically addressed in this Code are hereby repealed. This Code does not contain, and does not repeal, ordinances of a temporary nature or that do not have ongoing effect.

105.02. **Citation; Reference; Numbering System.** For the purposes of structuring this Code, the internal references made in it, and citation to it by its users, the following numbering system is used:

Chapter	Roman numerals (e.g. Chapter I)
Section	Arabic numerals (e.g. Section 100)
Subsection	Arabic numerals for section and subsection separated by decimal (e.g., Subsection 100.01)
Subdivision	Arabic numeral for subdivision separated from the subsection by comma (e.g. Subdivision 1 or Subd. 1)
Clause	English letters, lower case, in parentheses (e.g., (a)) (Example: Chapter I, Section 100.01, Subd. 1(a))

Reference or citations made in a form other than the foregoing will not defeat the intent of the Town Board in enacting an ordinance or the intent of a user in citing the Code when such intent is otherwise clear. This Code is to be construed liberally to carry out its intent and purposes.

105.03. **Service Charges.** Any charge or fee imposed by or related to this Code, as well as any costs incurred by the Town in the administration and enforcement of this Code, shall constitute a service charge collectable by the Town, in addition to any other legal authority available to the Town, pursuant to Minnesota Statutes, section 366.012 by certifying the amount to the auditor of any county in which the person owing the amount owns property for collection together with the taxes imposed on the property.

105.04. **Application Forms.** All applications required by this Code must be on forms approved by the Town Board. Any requests not submitted on an approved Town form shall not be considered an application for the purposes of this Code, or Minnesota Statutes, section 15.99 to the extent applicable, and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee and escrow (if required).

## **Section 110 – Definition of Terms; Interpretation; Conflicts**

### **110.01. Definitions; Common Terms.**

Subdivision 1. For purposes of this Code, the following terms shall have the meaning given them in this Section. The definitions contained in this Section are in addition to any other definitions contained within this Code. To the extent a term is not defined in this Code, it shall have the meaning given it in the most applicable Minnesota Statute or Rule and, if not defined therein, it shall have the meaning usually attributed to the term in the context in which it is used in this Code.

Subd. 2. “Board” or “Town Board” means the Town Board of Supervisors of Le Sauk Township, Stearns County, Minnesota.

Subd. 3. “Code,” “this Code” or “Code of Ordinances” means the Le Sauk Township Code adopted by ordinance, as organized, compiled, and codified herein.

Subd. 4. “Clerk” means the Le Sauk Township Clerk.

Subd. 5. “Owner” means, in the case of personal property, a person, other than a lien holder, having the property in or title to personal property. In the case of real property, the term means the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes, but is not limited to, vendees under a contract for deed and mortgagors.

Subd. 6. “Person” means an individual, firm, partnership, association or corporation. The term may also be extended to and apply to bodies corporate and politic, to partnerships, and other unincorporated associations.

Subd. 7. A reference to an elected or appointed Town officer includes the duly authorized representative of that officer.

Subd. 8. “Resident” means a person who resides in the Town.

Subd. 9. “Town” means Le Sauk Township, Stearns County, Minnesota, and all the territory lying within the Town’s boundaries.

110.02. **Definitions; Statutory.** For purposes of this Code, the terms defined in Minnesota Statutes, sections 645.44 and 645.45 have the meanings given them by those sections. Terms defined by statutes, rules or regulations, and ordinances adopted by reference have the meanings given them therein.

110.03. **Definitions; Internal.** Terms defined in other sections of this Code have the meanings given them by those sections.

#### 110.04. **Interpretation; Conflicts.**

Subdivision 1. Common Usage. Words and phrases used in this Code are to be interpreted and understood in accordance with common and accepted usage, but any technical words or phrases or such others as have acquired a specific or peculiar meaning are to be interpreted and understood in accordance with such meaning.

Subd. 2. Statutory Rules. It is the intent of the Town Board that the rules and canons of construction, presumptions, and miscellaneous provisions relating to statutory construction contained in Minnesota Statutes, chapter 645, apply to this Code and govern its interpretation. Questions of meaning, construction, and interpretation of this Code shall be resolved by application of the rules of interpretation contained in this Code and those established in Minnesota Statutes, chapter 645. The provisions of Minnesota Statutes, chapter 645 are adopted by reference and are to be reconciled and applied together with the rules of interpretation contained herein to the greatest extent possible.

## **Section 115 – Legislative Procedure**

115.01. **Ordinances; Enactment.** Ordinances are enacted in accordance with the procedures set forth in law. Ordinances are to be integrated into this Code in accordance with this Section.

115.02. **Form of Amendments and New Ordinances.** An ordinance amending this Code must specify the subsection, subdivision, and clause to be amended. Language to be added must be underlined and language to be repealed must be stricken. An ordinance repealing an entire chapter, section, subsection, subdivision or clause need refer only to that chapter, section, subsection, subdivision or clause, and the text need not be reproduced. The text of an ordinance adding only new provisions to the Code need not be underlined.

115.03. **Integration of Ordinances into the Code.**

Subdivision 1. **Duties.** The Town Clerk and the Town Attorney are authorized and directed to incorporate any ordinances subsequently adopted by the Town Board into this Code, provided such ordinances are not of a temporary or transient nature such that their incorporation would not be appropriate.

Subd. 2. **Matters Omitted.** When an ordinance is integrated into this Code, the following matters may be omitted:

- (a) Title;
- (b) Enacting clause;
- (c) Section numbers;
- (d) Definition of terms identical to those contained in this Code;
- (e) Validation and repealing clauses;
- (f) Validating signatures and dates;
- (g) Punctuation and other matters not an integral part of the text of the ordinance; and
- (h) Penalty provisions.

Subd. 3. **Errors.** When integrating ordinances into the Code, the Town Clerk and the Town Attorney may correct manifest grammatical, punctuation, and spelling errors; correct cross references and references to statutes and rules; change reference numbers to conform with sections, subsections, chapters, and ordinances; substitute figures for written words and vice versa; substitute dates for the words “the effective date of this ordinance;” and perform like actions to insure a uniform Code of Ordinances without, however, altering the meaning of the ordinances enacted.

115.04. **Ordinance Records; Special Ordinances.** The Town Clerk is responsible for the safe and orderly keeping of ordinances in a manner directed by the Town Board. An ordinance not included in this Code by Town Board direction is a special ordinance. The Town Clerk must place special ordinances in the Town’s ordinance book together with all other ordinances adopted by the Town Board. The Town Board may direct that special ordinances and other matters be included in appendices to this Code.

115.05. **Effective Date.** Ordinances adopted by the Town Board shall go into effect on the first day of publication after adoption unless a different effective date is provided by law or specified in the ordinance.

## **Section 120 - Penalties and Enforcement**

120.01. **Penalties.** Except as to violations which have been designated as gross misdemeanors or as petty misdemeanors by the State of Minnesota, or by any ordinance hereinafter adopted, any person who violates any ordinance of the Town of Le Sauk, or any provision thereof, shall be guilty of a misdemeanor. Punishment for the violation of all ordinances of the Town of Le Sauk shall be that designated in Section 609.02 as follows:

- (a) For a misdemeanor offense, the punishment shall be pursuant to Minnesota Statutes, section 609.02, subdivision 3;
- (b) For a gross misdemeanor offense, the punishment shall be pursuant to Minnesota Statutes, section 609.02, subdivision 4; and
- (c) For a petty misdemeanor offense, the punishment shall be pursuant to Minnesota Statutes, section 609.02, subdivision 4a.

120.02. **Administration and Enforcement.** The Town Board shall be responsible for administering and enforcing this Code, but it may delegate responsibility to administer and enforce portions of the Code to others. The Town Board, and those delegated authority to enforce portions of this Code, may issue cease and desist orders, citations, stop work orders, or such other directives or orders as they may determine are appropriate to stop or prevent the violation of this Code. This Code may be enforced by initiating such criminal proceedings or civil proceedings as the Town Board, or the delegated person, determines are appropriate and the initiation of a particular enforcement action or proceeding does not preclude or limit the Town's ability to initiate any other type of enforcement action or proceeding. The Town may take any reasonable action necessary to restrain a violation of this Code including, but not limited to, initiating such legal actions and seeking such orders from the court as it deems appropriate. The Town Attorney is authorized and delegated such powers as is necessary to issue such orders and directives, and to take all such other actions as may be needed to enforce or restrain a violation of this Code.

120.03. **Failure of Officers to Perform Duties.** The penalty imposed by this Section does not apply to the failure of an officer or employee of the Town to perform a duty imposed by this Code unless a penalty is specifically provided for such failure.

## **CHAPTER II ADMINISTRATION OF TOWN GOVERNMENT**

### **Section 200- Form of Government**

200.01. **Regular Town.** Le Sauk Township is a duly organized town of the State of Minnesota and is, therefore, classified by Minnesota Statutes, section 365.02 as a public corporation. The Town Board has not adopted, and does not exercise, powers under Minnesota Statutes, section 368.01. The electors of the Town have not voted to adopt any of the optional plans provided in Minnesota Statutes, section 367.30 for the Town.

### **Section 205 – Town Elections**

205.01. **Regular Elections.** The Town holds its regular election on the second Tuesday of November of even numbered years.

205.02. **Special Elections.** Special elections may be called, and shall be conducted, as provided in law.

205.03. **Board of Canvass.** The Town Board shall serve as the canvassing board for Town elections. The Town Board must meet to canvass the returns and declare the results between the third and tenth days after the election.

## **Section 210 – Public Offices**

210.01. **Town Supervisors.** The Town has three supervisors elected on the second Tuesday in November of even numbered years. Each supervisor serves a six-year term of office. The supervisors, as a Town Board, shall have charge of all Town affairs not committed to other officers by law. The Town Board may designate certain duties to individual supervisors and delegate to those supervisors the authority to carry out those duties on behalf of the Town. The authority to carry out the assigned duties is implied in the Town Board's delegation of the duties, except that the authority to contract or to otherwise bind the Town to any third parties is limited to the authority expressly provided by the Town Board.

210.02. **Town Clerk.** The Town Clerk is an elected position with a four year term. The clerk has the authority and duties set out in Minnesota Statutes, section 367.11 and such other law as may apply. The Town Board may delegate to the Town Clerk certain other authority and duties as may be needed to provide for the efficient operation of the Town.

210.03. **Town Treasurer.** The Town Treasurer is an elected position with a four year term. The Town Treasurer has the authority and duties set out in Minnesota Statutes, section 367.16 and such other law as may apply. The Town Board may delegate to the Town Treasurer certain other authority and duties as may be needed to provide for the efficient operation of the Town.

210.04. **Deputies.** The Town Clerk and Town Treasurer are authorized by law to each appoint one deputy. A duly appointed deputy is authorized to carry out the duties of the appointing officer in his or her absence or disability.

210.05. **Town Board Chairperson.** The Town Board shall appoint one of its members to serve as its Chairperson. The Chairperson shall be responsible for conducting and administering the Town Board meetings. The Chairperson shall also sign Town documents and checks on behalf of the Town. The Chairperson has no other additional powers or duties than any other Town Board member. The Chairperson has the full authority of a supervisor to make and second motions and to vote on all matters coming before the Town Board.

210.06. **Town Board Vice-Chairperson.** The Town Board shall appoint one of its members to serve as its Vice-Chairperson. The Town Board Vice-Chairperson shall serve as the Chairperson in the absence or disability of the Chairperson.

210.07. **Workers' Compensation.** The Town Board of Supervisors, Town Clerk, and Town Treasurer are considered to be Town employees for the purposes of the Town's workers' compensation insurance policy while acting within the scope of their official duties for the Town.



## **Section 215- Town Meetings and Procedures**

215.01. **Regular Town Board meetings.** The regular meetings of the Town Board are held on the second and fourth Tuesdays of each month at 7:00 p.m., unless otherwise specified by Town Board. Meetings may be adjourned from time to time to a specified date or subject to the call of the Chairperson. Meetings of the Town Board must be open to the public in accordance with the Minnesota Open Meeting Law, unless the meeting is closed as provided by law. A scheduled meeting falling on a legal holiday is held on the next following business day unless a different meeting date is established by the Town Board.

215.02. **Special Town Board Meetings.** The Chairperson is authorized to call a special Town Board meeting to conduct any item of Town business. Any other supervisor may request a special Town Board meeting by forwarding such request to the Town Clerk, who shall then forward it to the other supervisors. The requested special Town Board meeting will be called if so ordered by the Chairperson or upon consent by at least one other supervisor to call the meeting.

215.03. **Quorum.** A majority of Town Board supervisors constitutes a quorum, but a smaller number may adjourn from time to time. A supervisor must be present at a meeting in order to be counted toward a quorum and to vote, unless the person is attending by interactive television as provided by the Minnesota Open Meeting Law.

215.04. **Presiding Officer.** The Chairperson presides at meetings of the Town Board. If the Chairperson is not present at a meeting, the Vice-Chairperson shall serve as the presiding officer in the Chairperson's absence. The presiding officer must preserve order and decorum, decide questions of order, and conduct meetings in an orderly fashion and in accordance with any rules of procedures adopted by the Town Board. The presiding officer may speak on any question being considered, and has the rights, privileges, and duties of any other member of the Town Board.

215.05. **Agenda.** The Town Clerk shall prepare and distribute to the supervisors the agenda of regular Town Board meetings. The Town Board may, by motion at a meeting, amend the agenda. The Town may place routine and non-controversial matters of business on a consent agenda that is adopted in a single motion. Any item on the consent agenda may be removed at the request of any supervisor and placed on the regular agenda. The Town Board may adopt the remainder of the consent agenda items in a single motion.

215.06. **Decorum.** A person making personal, impertinent, or slanderous remarks, or who becomes boisterous while addressing the Town Board may be ordered by the presiding officer to leave the meeting unless permission to continue is granted by a majority vote of the Town Board. Meetings must be conducted in an orderly manner and proper decorum must be maintained by the presiding officer throughout the meetings.

215.07. **Town Board Policies.** The Town Board may adopt policies related to Town business by resolution and it may amend or repeal such policies by subsequent resolutions.

215.08. **Motions Reduced to Writing.** A motion must be reduced to writing at the request of any supervisor present. Ordinances and resolutions must be presented in writing. The roll call vote of each supervisor shall be taken when required by law and may otherwise be requested by a supervisor. Any vote taken where a supervisor does not vote against the motion or expressly abstains, the supervisor will be deemed to have voted affirmatively on the matter. Passage of an ordinance must be recorded in the minutes.

215.09. **Signing and Publishing Ordinances.** Ordinances must be signed by the Chairperson, attested by the Town Clerk, published after their passage by the Town Board, and placed in the Town ordinance book kept for that purpose. Ordinances may be published in summary form as authorized by law. A copy of the resolution approving summary language for publication shall be placed in the Town's ordinance book together with proof of publication.

215.10. **Annual Town Meetings.** The annual Town meeting is a meeting of the Town electors held on the second Tuesday in March each year. The electors are authorized at the annual Town meeting to set the Town's levy and to act on such other items of Town business as authorized in Minnesota Statutes, section 365.10 or other applicable law. Except to the extent Minnesota law expressly empowers the electors to make a final decision on a matter, actions taken at an annual Town meeting have the effect of providing the Town Board authority to act or recommending the Town Board act in a certain way regarding a matter. Such authorizations or recommendations do not compel the Town Board to take action or to act as recommended.

215.11. **Special Town Meetings.** Special Town meetings are meetings of the electors called to address one or more specific items of Town business on which the electors are authorized by law to act. Special town meetings may only be called in accordance with Minnesota Statutes, section 365.52. The business discussed at a special Town meeting is limited to the specific purpose or purposes for which the meeting was called.

215.12. **Moderator.** Annual and special Town meetings are conducted by a moderator selected for the meeting by the electors present at the meeting. The Town Clerk shall call the meeting to order and the first item of business shall be the selection of a moderator. The selected moderator must then state the order of business for the meeting. The moderator shall serve as the presiding officer for the purposes of the meeting.

## **Section 220 – Boards and Commissions**

220.01. **Joint Planning Board.** The Town and the City of Sartell have entered into a joint powers agreement that establishes the City of Sartell-Le Sauk Township Joint Planning Board (“Joint Planning Board”). The Joint Planning Board is comprised of members appointed by the Town Board and members appointed by the City Council. The Joint Planning Board directly participates in the adoption and administration of land use regulations within the Town.

220.02. **Board of Appeals and Adjustments.** The Town Board shall serve as the Board of Adjustments for the Town for purposes of considering and acting finally on variance applications.

220.03. **Board of Audit.** As provided in Minnesota Statutes, section 366.20, the Town Board serves as the Board of Audit for the Town. The Board of Audit shall review, audit, and settle all charges against the Town. The Town Board shall perform its auditing function during each regular Town Board meeting when the Town Board reviews the claims to be paid. The Town Board also sits as the Board of Audit at least annually to formally audit the claims for the year.

220.04. **Board of Appeal and Equalization.** As provided in Minnesota Statutes, section 274.01, the Town Board serves as the Board of Appeal and Equalization for the Town. The Board of Appeal and Equalization shall review the assessment and classification of property by the county assessor and determine whether the taxable property in the Town has been property placed on the list and properly valued as provided by law.

## **Section 225 – Financial Matters**

225.01. **Depository**. The Town Board shall designate the bank that shall serve as the depository of Town funds. The Town Board may change the designated bank as it determines is appropriate.

225.02. **Funds**. The Town Board may establish and name funds as it determines is appropriate. The Town shall, at a minimum, have a road and bridge fund and a general fund. As provided in Minnesota Statutes, section 366.04, the Town Board may, by unanimous vote of the supervisors present at the meeting, transfer a surplus beyond the needs of the current year in a fund to any other fund to supply a deficiency.

225.03. **Investments**. The Town Board may invest funds it holds that are not presently needed for other purposes or not restricted for other purposes. All such investments shall be made in accordance with Minnesota Statutes, section 118A.04 and other applicable law.

## CHAPTER III PUBLIC RIGHT-OF-WAYS AND UTILITIES

### Section 300 – Use of the Right-of-Way

300.01. **Purpose.** The primary objectives of this Section are to protect the public safety, reduce interferences with public travel, protect the public's interest in its right-of-way, and to provide for the efficient and uniform administration of the Town's road rights-of-way. The Town Board finds that regulations, requirements and restrictions, as set forth in this Section, are in the best interests of the health, safety and welfare of the Town's citizens.

300.02. **Authority.** As a road authority, the Town Board has broad authority to regulate what occurs within the Town's road rights-of-way. This authority is found in Minnesota Statutes, section 365.10, subdivision 17, a variety of sections in Minnesota Statutes, chapters 160, 164, 165, 222, 237 and other chapters, as well as the rules associated with those chapters.

300.03. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. "Approach" means the area of the right-of-way between the traveled surface of the road and the adjacent property that is intended to provide access for vehicles or equipment from the surface of the road to the adjacent property.

Subd. 2. "Headwall" means rock, concrete, masonry, metal, timber or other similar materials placed on the sides of an approach as support, to prevent erosion, or for decorative purposes.

Subd. 3. "Junk" means old or scrap hazard signs, copper, brass, rope, rags, batteries, paper, trash, garbage, waste materials, rubbish, rubber debris, appliances, waste or junked, dismantled or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

Subd. 4. "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

Subd. 5. "Right-of-Way" means the entire area on, below or above the public roadway, bicycle lane, public sidewalk, shoulders, ditches, and all adjacent areas in which the Town has an interest, including for travel, utility, or drainage purposes.

300.04. **Cultivation and Landscaping.**

Subdivision 1. **Cultivation.** No person may cultivate, plant, harvest or maintain agricultural crops, trees, bushes or shrubs within a right-of-way.

Subd. 2. **Landscaping.** No person may cultivate, plant or maintain grasses, flowers, vegetables or other vegetation in any manner that obstructs visibility of a road or otherwise

interferes with, obstructs, or renders dangerous for passage a right-of-way. No person may place watering systems or sprinkler heads within a right-of-way.

**300.05. Obstructions and Junk.**

Subdivision 1. Obstructions. No person may place, maintain or allow any obstruction in a right-of-way other than those specifically permitted by this Section, by state law or rule, or by written approval of the Town Board. Items prohibited by this Section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment or any other items that interfere with the safe use or the maintenance of the right-of-way. No person shall park a functioning vehicle in a right-of-way in such a way as to unreasonably interfere with the safe use of a road or the maintenance of the right-of-way.

Subd. 2. Junk. No person shall place or maintain junk in a right-of-way.

300.06. **Alteration of Grade.** No person may alter or change the depth or contour any portion of any ditch or embankment in a right-of-way without written approval of the Town Board.

300.07. **Unauthorized Maintenance.** No person may work, maintain, improve or repair the traveled portion of a right-of-way without the written approval of the Town Board.

300.08. **Damage to Right-of-Way.** No person shall cause damage to a right-of-way without the written approval of the Town Board. Any person doing damage within a right-of-way with approval of the Town Board shall return the right-of-way to at least the same condition it was in prior to the damage or be charged the Town's costs to repair the damage.

**300.09. Mailboxes, Signs and Newspaper Boxes.**

Subdivision 1. Mailboxes and Newspaper Boxes. Mailboxes and newspaper boxes are permitted within a right-of-way if they do not interfere with, obstruct, or render dangerous for passage a road. Mailboxes placed within a right-of-way must comply with all of the standards in Minnesota Rules, chapter 8818 regardless of the applicable speed limit. The Town Board may, at the owner's expense, remove and replace mailboxes that do not comply with the standards as provided in Minnesota Statutes, section 169.072.

Subd. 2. Signs. No sign of any nature may be placed or allowed to remain in any right-of-way except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law, or by permission of the Town.

300.10. **Snow Plow Limit Markers.** For the purpose of roadway demarcation, plastic or fiberglass snow plow limit markers are permitted within a right-of-way but shall only be placed 15-18 inches from the roadway surface. No person may place or affix snow plow limit markers that are constructed of wood or metal within any right-of-way.

**300.11. Approaches and Headwalls.**

Subdivision 1. Approaches. No person may construct or reconstruct any approach to a road without first obtaining approval by the Town Board. A person shall be required to submit a map or drawing of the existing or proposed approach when seeking approval.

Subd. 2. Culverts. A person constructing or reconstructing an approach shall be required to install a culvert meeting the specifications set out by the Town Board if the Town Board determines a culvert is necessary for suitable approach to the road and to promote adequate drainage of the right-of-way.

Subd. 3. Costs. A person constructing or reconstructing an approach to an existing road shall be responsible for paying all of the costs related thereto, including the cost of seeking all necessary approvals and the cost of a culvert if one is required. Property owners are responsible for maintaining all approaches and associated culverts on their property at their own cost.

Subd. 4. Headwalls. No person may construct or reconstruct any headwall in a way that interferes the safe use or maintenance of a right-of-way.

**300.12. Town and Contractors.** The prohibitions, requirements and restrictions contained in this Section do not apply to: the Town; Town officials, employees or agents while operating within the course and scope of their duties for the Town; or contractors while performing services within the scope of a contract with the Town.

**300.13. Permission.** Any person receiving permission or a permit from the Town Board as provided in this Section must comply with all applicable federal, state and local laws and rules as well as all applicable Town ordinances, resolutions, specifications, regulations, and policies. Any person receiving permission or a permit must comply with all conditions, requirements and limitations the Town Board expresses as part of the permission or permit. Failure to comply with any of the conditions, requirements or limitations shall void the permission or permit and may place the person in violation of this Section.

**300.14. Enforcement and Penalty.**

Subdivision 1. Correction Order. Upon discovery of a violation of this Section, the Town Board may issue a correction order to the violator or owner ordering the person to correct the violation by a certain time. If the person fails to comply with the correction order by the time indicated in the order, the Town Board may provide for the correction of the violation at the owner's expense. Issuance of a correction order does not preclude imposition of any other penalty set forth in this Section.

Subd. 2. Immediate Correction. If the Town Board determines that the violation creates an immediate threat to public safety, the Town Board will make a good faith effort to notify the violator to immediately correct the situation. If the Town Board is not able to promptly reach the

violator, or if the violator fails to immediately correct the situation upon notification, the Town Board will provide for the correction of the violation.

Subd. 3. Cost of Correction. The cost of correcting a violation shall be the responsibility of the owner. If the Town Board provides for the correction of the violation, all expenses incurred, including reasonable attorneys' fees, shall be billed to the owner and constitute a service charge. If the bill is not paid by the due date, the Town Board may exercise any lawful options available to it to collect the amount due including, but not limited to, certification to the county auditor for collection together with the property taxes on the owner's property as provided in Minnesota Statutes, section 366.012.

Subd. 4. Penalty. Any person who violates this Section shall be guilty of a misdemeanor and subject to the penalties for such as provided in State law. Each day of existence of such violation shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by Minnesota Statutes, section 366.01, subdivision 10.



### **Section 305 – Utilities in the Right-of-Way**

305.01. **Purpose.** It is the purpose of this Section to establish reasonable regulations, requirements and restrictions regarding the use of Town right-of-ways in order to protect the health, safety and welfare of Town residents, those traveling on Town roads and the general public. It is also the purpose of this Section to protect the cumulative investment the public has made to construct, maintain and improve the Town's roads by requiring those undertaking utility projects in and near the Town's right-of-ways to obtain a permit from the Town and to be responsible for restoring the right-of-ways directly or indirectly impacted by the project to at least the same or better condition they were in prior to the project. Finally, this Section provides for the recovery by the Town of its actual expenses incurred related to such projects.

305.02. **Authority.** As the road authority for the Town's roads, the Town Board has the authority and responsibility to provide for safe and efficient local roadways and to establish regulations governing the use and maintenance of Town roadways and public right-of-ways. This Section is adopted consistent with that authority, as well as the authority provided the Town Board pursuant to Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086, Minnesota Statutes, sections 164.36 and 169.87, and the other laws governing applicable rights of the Town and users of the right-of-way. This Section shall be interpreted consistent with those statutes as well as with Minnesota Rules, Parts 7819.0050 – 7819.9950 to the extent applicable. This Section shall not be interpreted to limit the regulatory and police powers of the Town to adopt and enforce general ordinances and policies necessary to protect the health, safety, and welfare of the public.

305.03. **Elect to Manage.** The Town Board hereby elects, pursuant to Minnesota Statutes, section 237.163, subdivision 2, to manage the Town's right-of-ways under its jurisdiction under Minnesota Statutes, sections 237.162 and 237.163, and all other applicable laws, for the purposes of Minnesota Rules, chapter 7819.

305.04. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. "Abandoned facility" means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

Subd. 2. "Applicant" means a person who submits a permit request for an excavation permit or an obstruction permit in accordance with this Section.

Subd. 3. "Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

Subd. 4. "Degradation Cost" subject to Minnesota Rules, Part 7819.1100, means the cost to achieve a level of restoration, as determined by the Town at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules, Parts 7819.9900 to 7819.9950.

Subd. 5. “Degradation Fee” means the estimated fee established at the time of permitting by the Town to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Subd. 6. “Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Subd. 7. “Emergency” means a condition that: (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

Subd. 8. “Excavate” means to dig into, trench or in any way remove, physically disturb or penetrate a part of the right-of-way.

Subd. 9. “Excavation permit” means the permit which, pursuant to this Section, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

Subd. 10. “Facility” or “facilities” mean any tangible asset in the right-of-way required to provide utility service.

Subd. 11. “Obstruct” means to hinder the free and open passage of any portion of a right-of-way for more than two hours or on more than one lane of traffic.

Subd. 12. “Obstruction permit” means the permit which, pursuant to this Section, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

Subd. 13. “Permit request” means a request to obtain an excavation permit or obstruction permit made on the Town Board’s approved application form or, if none, in a writing containing all of the information required by this Section.

Subd. 14. “Permittee” means a person to whom the Town Board has issued an excavation permit or obstruction permit under this Section.

Subd. 15. “Professional fees” means all actual costs, fees, and expenses the Town incurs related to a particular permit request, permit or permittee in the administration or enforcement of this Section. Such fees include, but are limited to, engineering fees, attorneys’ fees and any inspection costs.

Subd. 16. “Restore” or “Restoration” means the process by which an excavated right-of-way and surrounding area, including the travelled surface, shoulders, foundation, ditches and other drainage structures and approaches is returned to the same condition and life expectancy that existed before excavation.

Subd. 17. “Right-of-Way” means the area on, below, or above a public road, highway, street, cartway, bicycle lane or public sidewalk in which the Town has an interest, including other publicly dedicated right-of-ways for travel purposes and utility easements of the Town. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

Subd. 18. “Right-of-way user” means: (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subdivision 4, as may be amended; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise or ordinance to use the public right-of-way.

Subd. 19. “Small wireless facility” has the meaning given it in Minnesota Statutes, section 237.162, subdivision 11.

Subd. 20. “Wireless support structure” has the meaning given it in Minnesota Statutes, section 237.162, subdivision 16.

#### 305.05. **Permit Required.**

Subdivision 1. Except in emergencies, no person may excavate, obstruct, or place a new wireless support structure in a right-of-way without first obtaining a permit from the Town Board. An excavation permit is required to excavate any portion of a right-of-way for the purpose of placing, repairing, relocating or removing facilities. An obstruction permit is required to obstruct a right-of-way in any way related to the placement, repair, relocation or removal of facilities. To obtain a permit, a person must provide the Town Clerk with a written permit request for the proposed excavation or obstruction. If a proposed excavation project includes an obstruction at the same site, an applicant need not submit a separate permit request for an obstruction permit if the request for the excavation permit includes a description of the proposed obstruction. In such cases, the Town Board may issue a combination excavation/obstruction permit.

Subd. 2. Exclusions. The Town, its agents and contractors performing work for the Town shall not be required to obtain permits from the Town to excavate or obstruct a right-of-way. Contractors performing work for the Town shall be required to erect and maintain such signs and other traffic control devices as are necessary to warn of the work and to protect public safety.

#### 305.06. **Permit Requests.**

Subdivision 1. Form. Requests for an obstruction or excavation permit must be made on the application form adopted by the Town Board.

Subd. 2. Information Required. Permit requests must be in writing and contain at least the following information:

- (a) Name, address, phone number and fax number of the applicant;
- (b) Name, address, phone number and e-mail address of a local representative that will serve as the designated contact person on behalf of the applicant;
- (c) Name, address, phone number and fax number of any subcontractors that will be performing any part of the excavation or obstruction;
- (d) A written description of the work to be performed in the right-of-way at each location including whether the work will involve excavation or the obstruction of a right-of-way;
- (e) A scaled drawing showing the specific location of the work to be performed and the location and approximate depth of any facilities installed within a right-of-way;
- (f) Whether the applicant intends to restore the right-of-way or elect to pay a degradation fee in lieu of restoration;
- (g) The start and completion dates for the work at each location; and
- (h) Certificate of insurance showing, at a minimum, the amount of general liability coverage carried by the applicant and any contractors or subcontractors that will be performing any work within a right-of-way.

Subd. 3. Incomplete Requests. If a permit request received by the Town Board is incomplete, the Town Board will notify the applicant within 15 days of the information that is needed in order to complete the request. Incomplete permit requests are invalid and shall be deemed rejected unless all the required information is submitted to the Town Board within 30 days of the date the Town Board notified the applicant its permit request was incomplete.

Subd. 4. Permit Request Fee. All permit requests must be accompanied by a permit request fee as established by the Town Board, which shall include any outstanding amounts related to any prior obstructions or excavations by the applicant in the Town. The purpose of this fee is to compensate the Town Board for all costs associated with reviewing and considering the permit request. A permit request is not complete and shall not be considered by the Town unless it is accompanied by the required fee.

305.07. Indemnification. By making a permit request, the applicant agrees to, and all excavation and obstruction permits are issued on the condition that the permit holder defend and indemnify the Town in accordance with the provisions of Minnesota Rules, Part 7819.1250.

305.08. Automatic Permit. A permit request shall be deemed approved, and the requested permit automatically issued, if the Town Board does not notify the applicant that the application is incomplete or that the proposed excavation or obstruction requires the issuance of a written permit. The scope of such a permit shall be limited to the specific work, location, and period of

time described in the permit request. Notice of the need to obtain a written permit shall be provided within the following number of days from the date the Town Board received the applicant's completed permit request:

- (a) 15 days if the applicant intends to fully restore the right-of-way; or
- (b) 30 days if the applicant indicates an intent to pay a degradation fee in lieu of restoring the right-of-way.

### 305.09. **Written Permit.**

Subdivision 1. Conditions. If the Town Board notifies an applicant of the need to obtain a written permit, the applicant shall not undertake the proposed excavation or obstruction until the Town Board issues a written permit to the applicant. The Town Board will require a written permit if, in its sole discretion, it determines the potential impact on the public or right-of-way requires additional review or safeguards. When considering permit requests requiring a written permit, the Town Board may condition the issuance of a written permit on the applicant:

- (a) Providing the Town Board with additional information;
- (b) Providing a completion certificate as authorized in Minnesota Rules, Part 7819.1300;
- (c) Providing the Town with a construction performance bond with a term of at least 24 months as authorized by Minnesota Rules, Part 7819.3000 before the excavation occurs;
- (d) Require the restoration of the right-of-way be performed in accordance with Town Board established specifications and drawings; and
- (e) Complying with such other reasonable requirements as the Town Board may determine are necessary to protect the public health, safety, and welfare or the right-of-way and its current uses.

Subd. 2. Written Permit. When a written permit is required, the applicant is required, in addition to paying the permit request fee, to reimburse the Town Board for the actual costs it incurs related to issuing the permit including, but not limited to, costs of reviewing the request, conducting inspections, professional fees and any other costs actually incurred that directly relate to the applicant's request. The Town Board shall provide the applicant a written statement of costs incurred. Payment in full of the written permit fee is due upon receipt of the statement and must be received by the Town Board no later than 20 days from issuance of the statement. In the alternative, the Town Board and the applicant may agree to an advanced payment of the written permit fee. Failure to pay the written permit fee within the required period shall result in the immediate suspension of the permit and may result in the revocation of the permit as provided herein.

Subd. 3. Limitations. Permitted excavations or obstructions, whether issued automatically or by written permit, are limited to the area and time periods described in the permit request or written permit. A permit holder must seek a new permit if it wishes to excavate or obstruct outside of the originally permitted work area or timeframe.

305.10. **Delay Penalty.** A permit holder that does not complete its obstruction, excavation, or restoration of the right-of-way at a particular location within 10 days of the completion date shall pay the Town a delay penalty for each day of delay. If a permit holder is able to establish to the Town Board that one or more days of the delay was caused by circumstances beyond its control, such as bad weather or other circumstances constituting *force majeure*, the delay penalty shall not apply to those days of the delay.

305.11. **Telecommunication Facilities.** Telecommunication facilities to be installed in a right-of-way shall be installed according to the requirements set out in Minnesota Rules, Part 7819.5000 in addition to all other applicable federal, state and local requirements.

305.12. **Small Wireless Facilities.** Small wireless facilities may be placed on wireless support structures within a right-of-way with the issuance of a written permit from the Town and is subject to the requirements and limitations of Minnesota Statutes, sections 237.162 and 237.163, and all other applicable federal, state and local requirements. No small wireless facility may be placed on a wireless support structure owned by the Town except in accordance with a collocation agreement entered into with the Town.

305.13. **Gas and Electric Facilities.** Gas and electric facilities to be installed in a right-of-way shall be installed according to the requirements set out in Minnesota Rules, Part 7819.5100 in addition to all other applicable federal, state and local requirements.

305.14. **Restoration Required.** A permit holder must restore the right-of-way to at least the same condition that existed before the excavation, including the restoration of vegetative cover as needed and the full repair and restoration of any drainage structures. If there is a dispute as to the level of restoration required, the permit holder shall restore the right-of-way according to the applicable standards established in plates 1 to 13 set out in Minnesota Rules, Parts 7819.9900 to 7819.9950. If a permit holder elects in its permit request to pay a degradation fee in lieu of restoring the right-of-way, the fee will be in an amount the Town Board determines necessary for the Town to have the right-of-way restored according to the applicable standards established in plates 1 to 13. A permit holder electing to pay a degradation fee remains responsible for replacing and compacting the subgrade and aggregate base material in the excavation.

305.15. **Correct Defects and Restoration.**

Subdivision 1. Notice to Correct. Upon notice by the Town Board, a permit holder shall correct any defects in the work it performs to restore a right-of-way. The work to correct the defects shall be completed within seven days of the notice. If the permit holder is not able to complete the corrective work within seven days because of circumstances beyond its control, it shall complete the work as soon as is reasonably possible, which in no case shall exceed 14 days.

Subd. 2. Failure to Restore or Correct Defects. If a permit holder fails to restore the right-of-way within five calendar days after the completion of an excavation, or fails to correct defects as provided herein, the Town Board has the option of restoring the right-of-way or correcting the defects according to the standards established in plates 1 to 13 set out in Minnesota Rules, Parts 7819.9900 to 7819.9950. The Town shall provide a statement of its actual costs for restoring, or correcting defects, to the right-of-way to the permit holder. Payment in full of the statement is due upon receipt and must be received by the Town Board no later than 20 days from the date of the statement. If the permit holder fails to pay the billed amount, the Town may exercise its rights under the construction performance bond or pursue such other options as are available to it under law to recover its costs.

305.16. **Additional Limitations.** A permit holder shall comply with all of the following:

- (a) Compliance with Other Laws. Obtaining a right-of-way permit does not relieve a permit holder of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the Town or other applicable rule, law or regulation. A permit holder shall comply with all requirements of local, state, and federal laws including, but not limited to, Minnesota Statutes, sections 216D.01-.09 (Gopher One Call Excavation Notice System), and Minnesota Rules, chapter 7560. A permit holder shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- (b) Prohibited Work. Except in an emergency, and with the approval of the Town, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
- (c) Interference with Right-of-Way. A permit holder shall not so obstruct a right-of-way that it interferes with the natural free and clear passage of water through the ditches or other drainage structures. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with state and Town parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit, and without interfering with the safe use of the right-of-way by the public.
- (d) Trenchless Excavation. As a condition of all applicable permits, permit holders employing trenchless excavation methods including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes, chapter 216D and Minnesota Rules, chapter 7560; and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Town.

305.17. **Permit Denial.** The Town Board may deny a permit request if the applicant has failed to pay any fees, penalties or other amounts due as the result of previous excavations or obstructions unless the failure to pay is based on a good faith dispute over the amount owed. If

the amount owed the Town is in dispute, an applicant can become eligible to submit an additional permit request by placing the full amount the Town claims is still owed in escrow until the dispute is resolved. The Town Board may also deny a permit request for failure to meet the requirements of this Section, or if it determines the denial is necessary to protect the public health, safety and welfare.

305.18. **Warning Signs.** A permit holder shall supply, place and maintain warning signs as needed to warn the public of its excavation or obstruction. A permit holder shall comply with the standards established by the Minnesota Department of Transportation in determining the need for signage, the type of signs and their location.

305.19. **Notice of Completion.** A permit holder shall notify the Town when the work conducted pursuant to any permit issued hereunder is complete.

305.20. **Site Inspection.** A permit holder shall make its worksite available at all reasonable times to Town representatives to conduct inspections of the site during the work and at its completion.

305.21. **Town Authority.** At the time of inspection, the Town may order the immediate cessation of any work which it determines poses a serious threat to the life, health, safety or well-being of the public. The Town may also issue a notice of noncompliance to the permit holder for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The notice shall state that the failure to correct the violation will be cause for revocation of the permit. Within 10 days after issuance of the notice, the permit holder shall present proof to the Town that the violation has been corrected. If such proof has not been presented within the required time, the Town representative may revoke the permit as provided herein.

305.22. **Permit Revocation.** The Town Board may issue an order revoking a permit if a permit holder fails to comply with a noncompliance notice or if it determines the permit holder is conducting the work in such a way as to pose an unreasonable risk to the public. An order revoking a permit must state the specific items of noncompliance and is effective four days from the date of issuance if the permit holder does not come into full compliance and otherwise corrects the items stated in revocation order. If the Town Board revokes a permit, it shall provide for the restoration of the right-of-way and the permit holder shall pay all costs the Town incurs associated with the restoration to the standards established in plates 1 to 13 set out in Minnesota Rules, Parts 7819.9900 to 7819.9950. If a permit is revoked, the permit holder shall also reimburse the Town for the Town's reasonable costs, including restoration costs, the costs of collection, and professional fees incurred in connection with such revocation.

305.23. **Emergencies.** An excavation or obstruction permit is not required in order for a person to respond to emergencies related to their facilities. However, within two business days after the occurrence of the emergency, the person shall apply for the necessary permits, pay the fees associated with those permits, and comply with the requirements to obtain those permits and of this Section.



305.24. **Work Done Without a Permit.** Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the Town, deposit with the Town the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this Section.

305.25. **Relocation of Facilities.** A person is required, at his or her own expense, to promptly and permanently remove and relocate his or her facilities in the right-of-way when it is necessary to prevent interference in connection with: the Town's present or future use of the right-of-way for a public project; the public health, safety and welfare; or the safety and convenience of travel over the right-of-way. A person shall also pay for the relocation of his or her facilities upon the vacation of the right-of-way as provided for in Minnesota Rules, Part 7819.3200, subpart 2.

305.26. **Right-of-Way Vacation.** If the Town Board vacates all or a portion of a right-of-way containing facilities and the vacation does not require the relocation of those facilities, the Town Board shall, except when it would not be in the public interest, reserve to and for itself and all those having facilities in the vacated right-of-way, the right to install, maintain and operate facilities in the vacated right-of-way and to enter upon the right-of-way at any time to reconstruct, inspect, maintain, or repair the facilities.

305.27. **Abandoned Facilities.** A person is required to remove any of his or her abandoned facilities in conjunction with other right-of-way repair, excavation or construction unless expressly waived in writing by the Town Board in a specific situation upon the request of the person.

305.28. **Fees and Penalties.** All fees and penalties provided for in this Section shall be established from time to time by Town Board resolution in compliance with Minnesota Rules, Part 7819.1000 and made available to the public upon request. Unless indicated otherwise in a franchise, the fees and penalties provided for herein are in addition to any franchise fees a permit holder may be required to pay. All fees, penalties and other charges imposed under this Section are non-refundable.

305.29. **Notices.** For the purposes of the Town Board providing notice under this Section, the Town Board shall be deemed to have satisfied its notice obligation if it provides the required period of notice by mail, fax or e-mail to the applicant's designated local representative.

305.30. **Appeal.** A right-of-way user that: (1) has been denied a permit; (2) has had a permit revoked; (3) believes that the fees imposed are not in conformity with Minnesota Statutes, section 237.163, subdivision 6; or (4) disputes a determination of the Town regarding compliance with this Section or of permit conditions, may have the denial, revocation, fee imposition or decision reviewed by the Town Board upon a written notice of appeal detailing the reasons for the appeal and the relief being sought submitted within 14 days of the decision or action being appealed. The Town Board shall act on a timely written appeal at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. The Town Board's decision will be issued in

writing and supported by written findings establishing the reasonableness of the decision. Such decision shall constitute a final decision of the Town regarding the matter being appealed.

305.31. **Delegation.** The Town Board may delegate authority to administer and enforce all or any aspect of this Section to one or more supervisors, employees, contractors or agents as it deems appropriate.

305.32. **Severability.** Nothing in this Section precludes the Town from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

## **Section 310 – Illicit Discharges and Connections**

310.01. **Purpose and Intent.** The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the Township through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (“MS4”) in order to comply with requirements of the National Pollutant Discharge Elimination System (“NPDES”) permit process. The objectives of this Section are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user;
- (b) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
- (c) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Section.

310.02. **Definitions.** For the purposes of this Section, the following terms shall have the meaning given them in this Subsection.

Subd. 1. “Best management practices” or “BMPs” means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Subd. 2. “Clean water act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

Subd. 3. “Construction activity” means activities subject to NPDES Construction Permits. Currently these activities include construction projects resulting in land disturbance of 1 acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Subd. 4. “Hazardous materials” mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Subd. 5. “Illegal discharge” means any direct or indirect non-stormwater discharge to the storm drain system, except as expressly exempted in this Section.

Subd. 6. “Illicit connection” means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Township or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Township.

Subd. 7. “Industrial activity” means any activity subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Subd. 8. “National pollutant discharge elimination system stormwater discharge permit” means a permit issued by the Environmental Protection Agency (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Subd. 9. “Non-stormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

Subd. 10. “Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Subd. 11. “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, the following: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Subd. 12. “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Subd. 13. “Storm drainage system” means any publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, Township roads, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Subd. 14. “Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Subd. 15. “Stormwater pollution prevention plan” means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, or receiving waters to the maximum extent practicable.

Subd. 16. “Township” means Le Sauk Township and, for the purposes of administering and enforcing this Section, these entities or persons designated by the Town Board to assist in the administrative or enforcement of this Section.

Subd. 17. “Wastewater” means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

310.03. **Applicability.** This Section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Township.

310.04. **Administration.** The Township shall administer, implement, and enforce the provisions of this Section. Any powers granted or duties imposed upon the Township may be delegated by the Township Board to persons or entities acting in the beneficial interest of or in the employ of the Township.

310.05. **Minimum Standards.** The standards set forth herein and promulgated pursuant to this Section are minimum standards. As such, this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

310.06. **Illegal Discharges.**

Subdivision 1. **Prohibited.** No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

Subd. 2. **Exceptions.** The following discharges are exempted from the prohibition.

- (a) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.

- (b) Discharges specified in writing by the Township as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a verbal notification to the Township prior to the time of the test.
- (d) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

310.07. **Illicit Connections Prohibited.** The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

310.08. **Suspension or Termination of Access.**

Subdivision 1. **Emergency Suspension.** The Township may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Township may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

Subd. 2. **Suspension Upon Notice.** Any person discharging to the MS4 in violation of this Section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Township will notify a violator of the proposed termination of its MS4 access. The violator may petition the Township for a reconsideration and hearing.

Subd. 3. **Reconnection Prohibited.** A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Township.

310.09. **Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Township prior to the allowing of discharges to the MS4.

310.10. **Monitoring of Discharges.**

Subdivision 1. Applicability. This Subsection applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

Subd. 2. Access to Facilities.

- (a) The Township shall be permitted to enter and inspect facilities subject to regulation under this Section as often and at such reasonable times as may be necessary to determine compliance with this Section. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Township.
- (b) Facility operators shall allow the Township ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (c) The Township shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Township to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (d) The Township has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Township and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the Township access to a permitted facility is a violation of a stormwater discharge permit and of this Section. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Township reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Section.
- (g) If the Township has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Section or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the

Township may seek issuance of a search warrant from any court of competent jurisdiction.

310.11. **Best Management Practices.** The Township will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan ("SWPP") as necessary for compliance with requirements of the NPDES permit.

310.12. **Watercourse Protection.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

310.13. **Chloride Reduction.** All commercial, institutional, and non-NPDES permitted industrial facilities which store salt on-site must implement the following best management practices:

- (a) Designated salt storage areas must be covered or indoors;
- (b) Designated salt storage areas must be located on an impervious surface; and
- (c) Implementation of practices to reduce exposure when transferring material in designated salt storage areas (e.g., sweeping, diversions, and/or containment).

310.14. **Notification of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Township in person or by phone or facsimile no later than the next business day.



Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Township within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**310.15. Enforcement.**

Subdivision 1. Notice of Violation. Whenever the Township finds that a person has violated a prohibition or failed to meet a requirement of this Section, the Township may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs;
- (f) The implementation of source control or treatment BMPs and
- (g) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the Township or a contractor and the expense thereof shall be charged to the violator.

Subd. 2. Appeal of Notice of Violation. Any person receiving a notice of violation may appeal the determination of the Township. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the Town Board shall take place at its next regular meeting following receipt of the notice of appeal and providing at least 10 days notice to appellant. The decision of the Town Board shall be final.

Subd. 3. Enforcement After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 10 days of the decision of the Town Board upholding the decision of the Township, then representatives of the Township shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Township or designated contractor to enter upon the premises for the purposes set forth above.

Subd. 4. Cost of Abatement. Within 10 days after abatement of the violation, the owner of the property will be notified in writing of the cost of abatement, including administrative costs. If the amount due is not paid within 30 days, the charges may be collected on the taxes of the property as a service charge under Minnesota Statutes, section 366.012, as a special charge that is specially assessed under Minnesota Statutes, section 429.101, or pursuant to any other authority available to the Township under law. The property owner may appeal the amount of abatement costs charged by the Township by submitting a written appeal to the Township within 20 days of the date of the written notification of the charges. If a timely appeal is received, the Township will schedule and provide at least 10 days notice of a hearing before the Town Board to hear and act on the appeal. The decision of the Town Board on the appeal constitutes a final decision on the matter.

Subd. 5. Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. If a person has violated or continues to violate the provisions of this Section, the Township may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Subd. 6. Enforcement Alternatives. In lieu of enforcement proceedings, penalties, and remedies authorized by this Section, the Township may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Subd. 7. Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Subd. 8. Criminal Prosecution. Any person that has violated or continues to violate this Section is subject to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty as provided by law. The Township may recover all attorney's fees court costs and other expenses associated with enforcement of this Section, including sampling and monitoring expenses.

Subd. 9. Remedies Not Exclusive. The remedies listed in this Section. are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Township to seek cumulative remedies.

## **Section 312 – Stormwater**

### **312.01. General Provisions.**

Subdivision 1. Authority. This Section is adopted pursuant to the Township's zoning authority under Minnesota Statutes, chapter 462 and such other authority as may apply.

Subd. 2. Application. In the event of any conflict between provisions of this Section or other regulations adopted by the Township, the State of Minnesota, or Federal authorities, watershed district or watershed management organization, the more restrictive standard shall prevail.

Subd. 3. Purpose. The purpose of this Section is established to promote, preserve and enhance natural resources and human health and safety within the Township by protecting them from the adverse impacts of uncontrolled stormwater runoff during and after construction projects.

Subd. 4. Scope. This Section sets requirements for stormwater conveyance systems and management practices within the Township. This Section also regulates land disturbing or development activities that would have a negative and potentially irreversible impact on water quality.

Subd. 5. Applicability. The requirements of this Section apply to all construction activity as defined in this Section.

312.02. **Definitions.** For the purposes of this Section, the following terms shall have the meaning given them in this Subsection.

Subdivision 1. "Active karst" means a terrain having distinctive landforms and hydrology created primarily from the dissolution of soluble rocks within 50 feet of the land surface.

Subd. 2. "Best management practices" or "BMPs" means the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means of to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

Subd. 3. "Common plan of development or sale" means one proposed plan for a contiguous area where multiple separate and distinct land-disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

Subd. 4. “Construction activity” means activities including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre, including the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre. This includes a disturbance to the land that results in a change in the topography, existing soil cover, both vegetative and nonvegetative, or the existing soil topography that may result in accelerated stormwater runoff that may lead to soil erosion and movement of sediment. Construction activity does not include a disturbance to the land of less than five acres for the purpose of routine maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Routine maintenance does not include activities such as repairs, replacement and other types of non-routine maintenance. Pavement rehabilitation that does not disturb the underlying soils (e.g., mill and overlay projects) is not construction activity.

Subd. 5. “Dewatering” means the removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. Dewatering may require a Minnesota Department of Natural Resources (“DNR”) water appropriation permit and, if dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

Subd. 6. “DNR catchment area” means the Hydrologic Unit 08 areas delineated and digitized by the Minnesota DNR. The catchment areas are available for download at the Minnesota DNR Geospatial Commons website. DNR catchment areas may be locally corrected, in which case the local corrections may be used.

Subd. 7. “Energy dissipation” means methods employed at pipe outlets to prevent erosion caused by the rapid discharge of water scouring soils.

Subd. 8. “Erosion prevention” means measures employed to prevent erosion such as soil stabilization practices, permanent cover or construction phasing.

Subd. 9. “Fully reconstructed” means areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and other pavement rehabilitation projects that do not expose the underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed. Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.

Subd. 10. “General permit” means a permit issued under Minnesota Rules, part 7001.0210 to a category of owners/operators whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.

Subd. 11. “Groundwater” means the water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Subd. 12. “Infeasible” means not technologically possible or not economically practicable and achievable in light of the best industry practices.

Subd. 13. “Initiated immediately” means taking an action to commence soil stabilization as soon as practicable, but no later than the end of the workday, following the day when the land-disturbing activities temporarily or permanently ceased. If construction work on the site will be cease for 14 or more additional calendar days, or seven calendar days on a project that is within one mile (aerial radius measurement) of, and flows to, one or more of the following: “impaired waters”, “other special waters”, “prohibited waters”, and/or “restricted waters” as defined), stabilization can be immediately initiated by:

- (a) Prepping the soil for vegetative or non-vegetative stabilization;
- (b) Applying mulch or other non-vegetative product to the exposed soil area;
- (c) Seeding or planting the exposed area;
- (d) Starting any of the activities in (a) – (c) on a portion of the area to be stabilized, but not on the entire area; or
- (e) Finalizing arrangements to have stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

Subd. 14. “Impaired waters” means a water with an United States Environmental Protection Agency approved total maximum daily load for any of the impairments listed in this item, and waters identified as impaired under section 303(d) of the Clean Water Act for phosphorus (nutrient eutrophication biological indicators), turbidity, TSS, dissolved oxygen or aquatic biota (fish bioassessment, aquatic plant bioassessment and aquatic macroinvertebrate bioassessment).

Subd. 15. “Impervious surface” means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, driveways, parking lots, and concrete, asphalt, or gravel roads. Bridges over surface waters are considered impervious surfaces.

Subd. 16. “Linear project” means construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale. For example, roads being constructed concurrently with a new residential development are not considered linear projects because they are part of a common plan of development or sale.

Subd. 17. “Municipal separate storm sewer system” or “MS4” means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

- (a) Owned or operated by a state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district or similar entity, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management Agency under section 208 of the federal Clean Water Act, United States Code, title 33, section 1288, that discharges into waters of the state;
- (b) Designed or used for collecting or conveying stormwater;
- (c) That is not a combined sewer; and
- (d) That is not part of a publicly owned treatment works as defined in 40 CFR 122.2.

Municipal separate storm sewer systems do not include separate storm sewers in very discrete areas, such as individual buildings.

Subd. 18. “National pollutant discharge elimination system” or “NPDES” means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act, as amended (33 U.S.C. 1251 et seq. Section 1342 and 40 CFR parts 122, 123, 124 and 450).

Subd. 19. “Natural buffer” means an area of undisturbed cover surrounding surface waters within which construction activities are restricted. Natural buffer includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

Subd. 20. “Normal wetted perimeter” means the area of a conveyance, such as a ditch or channel, that is in contact with water during flow events that are expected to occur from a two-year, 24-hour storm event.

Subd. 21. “Other special waters” means Trout Lakes identified in Minnesota Rules, part 6264.0050, subp. 2. and Trout Streams listed in Minnesota Rules, part 6264.0050, subpart 4.

Subd. 22. “Owner” means the persons, firm, governmental agency, or other entity on the application submitted and are responsible for compliance with the terms and conditions of this Section.

Subd. 23. “Permanent cover” means surface types that will prevent soil failure under erosive conditions. Examples include: gravel, concrete, perennial cover, or other landscaped material that will permanently arrest soil erosion. Permanent cover consists of a uniform perennial vegetative cover (i.e., evenly distributed, without larger bare areas) with a density of 70 percent of the native background vegetative cover or equivalent permanent stabilization measures. Permanent cover does not include temporary BMPs such as wood fiber blanket, mulch, and rolled erosion control products.

Subd. 24. “Project(s)” means all construction activity planned and/or conducted under this Section. The project occurs on the site or sites as described in the site plan.

Subd. 25. “Public waters” means all water basins and watercourses described in Minnesota Statutes, section 103G.005, subdivision 15.

Subd. 26. “Prohibited waters” means Boundary Waters Canoe Area Wilderness; Voyageurs National Park; Kettle River from the site of the former dam at Sandstone to its confluence with the Saint Croix River; Rum River from Ogechie Lake spillway to the northernmost confluence with Lake Onamia; Lake Superior North of latitude 47 degrees, 57 minutes, 13 seconds; Lake Superior East of Hat Point; Lake Superior South of the Minnesota-Ontario boundary; Lake Superior West of the Minnesota-Michigan boundary; Boot Lake, Anoka County; Kettle River in sections 15, 22, 23, T 41 N, R 20, Pine County; Pennington Bog, Beltrami County; Purvis Lake-Ober Foundation, Saint Louis County; waters within the borders of Itasca Wilderness Sanctuary, Clearwater County; Iron Springs Bog, Clearwater County; Wolsfeld Woods, Hennepin County; Green Water Lake, Becker County; Blackdog Preserve, Dakota County; Prairie Bush Clover, Jackson County; Black Lake Bog, Pine County; Pembina Trail Preserve, Polk County; and Falls Creek, Washington County.

Subd. 27. “Restricted waters” means Lake Superior, except those portions identified as prohibited special waters above; the Mississippi River in those portions from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981; Saint Croix River, entire length; Cannon River from northern city limits of Faribault to its confluence with the Mississippi River; North Fork of the Crow River from Lake Koronis outlet to the Meeker-Wright county line; Kettle River from north Pine County line to the site of the former dam at Sandstone; Minnesota River from Lac que Parle dam to Redwood County State Aid Highway 11; Mississippi River from County State Aid Highway 7 bridge in Saint Cloud to northwestern city limits of Anoka; Rum River from State Highway 27 bridge in Onamia to Madison and Rice streets in Anoka; the Lake Trout Lakes identified in Minnesota Rules, part 7050.0335 including those inside the boundaries of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park; and Calcareous Fens listed in Minnesota Rules, part 7050.0335, subpart 1.

Subd. 28. “Sediment control” means methods employed to prevent suspended sediment in stormwater from leaving the site (e.g. silt fences, compost logs and storm drain inlet protection).

Subd. 29. “Stabilize”, “Stabilized”, “Stabilization” means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Grass seeding, agricultural crop seeding or other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground coverage (typically 2 ton/acre).

Subd. 30. “Stormwater” means precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.

Subd. 31. “Structural stormwater BMP” means a stationary and permanent BMP that is designed, constructed, and operated to prevent or reduce the discharge of pollutants in stormwater.

Subd. 32. “Surface water” or “Waters” means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except that surface waters do not include stormwater treatment systems.

Subd. 33. “Wetlands” (as defined in Minnesota Rules, part 7050.0186, subpart 1a.B.) means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

- (a) A predominance of hydric soils;
- (b) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
- (c) Under normal circumstances support a prevalence of such vegetation.

**312.03. National Pollutant Discharge Eliminations System/State Disposal System (NPDES/SDS) Permit.**

Subdivision 1. Permit Required. The owner of construction activity must apply for coverage under the Minnesota Pollution Control Agency’s Construction Stormwater Permit (Permit No: MNR100001). A Township permit will not be issued until coverage under the MPCA’s Construction Stormwater Permit has been obtained by the applicant.

Subd. 2. Additional Permits. For certain construction activity, various other permits may also be required. The owner of construction activity is responsible for obtaining any other required permits from the Township and other state, federal, or local governmental agencies having any authority over the work to be performed. Typically, such agencies may include, but are not limited to, the U.S. Army Corps of Engineers, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Minnesota Department of Transportation, and the State Historical Preservation Office.

**312.04. Construction Site Stormwater Runoff Control.** The Township hereby adopts and incorporates by reference the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency’s NPDES/SDS Construction Stormwater General Permit MNR100001 (“CSW Permit”) as now constituted and from time to time amended.

Subdivision 1. Site Plan Review.



- (a) The owner of construction activity shall submit a copy of the site plan as part of the permit application for review and confirmation that Section requirements have been met.
- (b) If the permit application is denied, and the Owner would like to proceed with the project, the Owner must revise the permit application, including the site plan, and resubmit.
- (c) Once a permit has been issued/approved, the site plan becomes an enforceable document, and the owner must comply with all requirements identified in the site plan. The owner is also responsible for keeping the stormwater runoff control requirements identified in the site plan up-to-date.

312.05. **Post-Construction Stormwater Management.**

Subdivision 1. Submittal of Site Plans consisting of Post-Construction Plans.

- (a) Site plans must be submitted for review and confirmation that Section requirements have been met, prior to start of construction activity.
- (b) Site plans must consist of:
  - (1) All calculations for the permanent stormwater treatment system;
  - (2) The water quality volume that will be treated through volume reduction practices;
  - (3) Rationale and documentation supporting the location of any off-site permanent stormwater treatment projects; and
  - (4) All legal mechanisms related to long-term maintenance as provided in this Section.

Subd. 2. Post-Construction Stormwater Management BMPs. Post-construction stormwater BMPs must meet the following criteria:

- (a) Designed with accepted engineering practices and in accordance with the design specifications and criteria as outlined in the Permanent Stormwater Design Checklist adopted separately by the Town Board.
- (b) Treat the water quality volume on any project where the sum of the new impervious surface and the fully reconstructed impervious surface equals one or more acres.

- (c) For non-linear projects, water quality volume (calculated as an instantaneous volume) must be calculated as one inch times the sum of the new and the fully reconstructed impervious surface.
- (d) For linear projects, water quality volume (calculated as an instantaneous volume) must be calculated as the larger of one inch times the new impervious surface or one-half inch times the sum of the new and the fully reconstructed impervious surface. Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first, as described in this Section. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements, or other permission cannot be obtained, the owner/operator of construction activity must maximize the treatment of the water quality volume prior to discharge from the Township's MS4.
- (e) Volume reduction practices (e.g., infiltration or other) to retain the water quality volume on-site must be considered first when designing the permanent stormwater treatment system. Wet sedimentation basins and filtration systems are not considered volume reduction practices. If infiltration is prohibited, as described in this Section. Use of an infiltration system other volume reduction practices, a wet sedimentation basin, or a filtration basin may be considered.
- (f) For discharges to a trout stream, the system must be designed so the discharge from the project minimizes any increase in the temperature of trout streams resulting from the one or two year 24-hour precipitation events. This includes all tributaries of designated trout streams located within the same Public Land Survey System ("PLSS") Section. The design must incorporate one or more of the following measures, in order of preference:
  - (1) Provide stormwater infiltration or other volume reduction practices as provided in this Section, to reduce runoff. Infiltration systems must discharge all stormwater routed to the system within 24 hours;
  - (2) Provide stormwater filtration as described in this Section (Filtration System). Filtration systems must discharge all stormwater routed to the system within 24 hours;
  - (3) Minimize the discharge from connected impervious surfaces by discharging to vegetated areas, or grass swales, and through the use of other non-structural controls;
  - (4) If ponding is used, the design must include an appropriate combination of measures such as shading, vegetated swale discharges or constructed

wetland treatment cells that limit temperature increases. The pond must be designed as a dry pond and should draw down in 24 hours or less; and

- (5) Other methods that minimize any increase in the temperature of the trout stream.

(g) Off-site Treatment.

- (1) For non-linear projects, where the water quality volume cannot cost effectively be treated on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment and meet the following requirements (must be selected in the following order of preference):
  - i. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;
  - ii. Locations within the same DNR catchment area as the original construction activity;
  - iii. Locations in the next adjacent DNR catchment area up-stream; and
  - iv. Locations anywhere within the Township's jurisdiction.
- (2) Off-site treatment projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs owned or operated by the Township cannot be used to meet this requirement.
- (3) Off-site treatment projects must be completed no later than 24 months after the start of the original construction activity.

(h) Long-term Maintenance.

- (1) The owner must enter into a long-term maintenance agreement with the Township that documents all responsibilities for long-term operation and maintenance of stormwater treatment practices that are not owned or operated by the Township. At a minimum, the long-term maintenance agreement must include provisions that:
  - i. Allow the Township to conduct inspections of structural stormwater BMPs not owned or operated by the Township, perform necessary maintenance, and assess costs for those structural stormwater BMPs when the Township determines the

owner of that structural stormwater BMP has not ensured proper function;

- ii. Are designed to preserve the Township's right to ensure maintenance responsibility, for structural stormwater BMPs not owned or operated by the Township, when those responsibilities are legally transferred to another party; and
  - iii. Are designed to protect/preserve structural stormwater BMPs. If structural stormwater BMPs change, causing decreased effectiveness, new, repaired, or improved structural stormwater BMPs must be implemented to provide equivalent treatment to the original BMP.
- (i) Permanent Stormwater Management System Design Criteria. Post-construction stormwater management best management practices must be designed with accepted engineering practices and meet design specifications and criteria as outlined in the Permanent Stormwater Design Checklist adopted separately by the Town Board.

312.06. **Right of Entry.** The owner must allow the Township and their authorized representatives to enter all properties at any reasonable time for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the MS4 as often as may be reasonably necessary to determine compliance. These activities include, but are not limited to, the following:

- (a) Conducting investigations or surveys;
- (b) Examining and copying any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permitted activity;
- (c) Inspecting the requirements of this Section; and
- (d) Sampling and monitoring any items or activities pertaining to this Section.

312.07. **Enforcement.**

Subdivision 1. Enforcement Powers. When an owner fails to conform to any provision of this Section within the time stipulated, the Township may take the following actions:

- (a) Issue a stop work order, withhold the scheduling of inspections, and/or withhold the issuance of a certificate of occupancy; and

- (b) Suspend or revoke any permit issued by the Township to the owner/operator for the site in question or any other of the owner/operator's sites within the Township's jurisdiction.

Subd. 2. Emergencies. If circumstances exist such that noncompliance with this Section poses an immediate danger to the public health, safety and welfare, as determined by the Township, the Township may take emergency preventative action to correct the deficiency or hire an independent contractor to correct the deficiency. The issuance of a permit constitutes a right-of-entry for the Township to enter upon the site for the purpose of correcting deficiencies.

Subd. 3. Reimbursement of Costs. The Township may require the owner to reimburse the Township for all costs it incurred in correcting stormwater pollution control deficiencies. If payment is not made within 30 days after costs are incurred by the Township, then the Township may assess the remaining amount against the property as a service charge under Minnesota Statutes, section 366.012, a special charge under Minnesota Statutes, section 429.101, or such other authority available to the Township under law. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the Township, agree that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights to challenge the amount or validity of such assessment costs related to cleanup or corrective actions taken by the Township.

## **Section 315 – Cable Communications**

315.01. **Purpose.** The purpose of this Section is to regulate the construction, installation, operation, repair, maintenance, removal and relocation of facilities and equipment used for the transmission of telecommunications or related services in the public ground of the Town; and to regulate the granting, operation and renewal of cable television franchises within the Town.

315.02. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. “Franchisor” means the Town of Le Sauk.

Subd. 2. “Franchisee” means any cable television companies to which the Town may from time to time award a cable communication franchise.

Subd. 3. “FCC” means the Federal Communications Commission of the United States.

Subd. 4. “Company” means a natural or corporate person, business, association, political subdivision, public or private agency of any kind, its successors and assigns, who or which seeks or is required to construct, install, operate, repair, maintain, remove or relocate facilities in the Town.

Subd. 5. “Director” means the Town Board supervisor who oversees Town roads, (or equivalent position at the Town) or his or her designated representative.

Subd. 6. “Facilities” means telecommunications equipment of any kind, including, but not limited to, audio, video, paging, facsimile or similar service, including all trunks, lines, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased or operated by a company on, over, in, under, across or along public ground.

Subd. 7. “Public Grounds” means highways, roads, streets, alleys, public ways, utility easements and public grounds in the Town.

315.03. **Grant of Authority.** The Town Board is authorized to grant cable communications franchises for the installation, operation and maintenance of a cable communications system within the Town. All franchises shall be subject to the terms and performance conditions stated in this Section.

315.04. **Compliance with State and Federal Laws.** The franchisee and the franchising authority shall conform to all state and federal laws and rules regulating cable communications as they become effective.

315.05. **Franchise Terms.** Each franchise or renewal shall have a term as may be stated in the franchise or renewal, but no franchise may be granted or renewed for a term greater than 15 years.

315.06. **Franchise Exclusivity.** No franchise shall be exclusive.

315.07. **Sale or Transfer of the Franchise, Sale or Transfer of Stock.**

Subdivision 1. **Transfer.** Any transfer of a franchise shall be subject to the approval of the franchisor. The franchisor has 120 days from the submission of information regarding the successor's ability to operate in accordance with the terms of this Section to approve or disapprove the transfer. Approval of a transfer shall not be unreasonably denied. Approval may be denied only upon a finding that the successor does not have the ability or capability to operate the franchise in accordance with the terms of this Section and this franchise.

Subd. 2. **Sale or Lease.** No sale or lease of the rights granted herein shall be effective until the successor or lessee shall have filed in the office of the Town Clerk an instrument, duly executed, reciting the fact of such sale or lease, accepting the terms contained herein, and agreeing to perform all conditions required of the franchise. At that time, the successor or lessee shall also file with the Town Clerk a duly executed bond, fully complying with any bonding requirements of this Section.

Subd. 3. **Access to Financial Records.** The Town is granted the authority to audit the franchisee's accounting and financial records upon reasonable notice. The franchisee shall file annually with the Town reports of gross revenues and other information as the Town deems appropriate. Reports of gross revenues shall be open to public inspection.

315.08. **Rates, Rate Change Procedure and Residential Subscriber Contracts.**

Subd. 1. **Rates.** Prior to offering service to any member of the general public, the franchisee shall prepare a clear and concise list of all current subscription rates and charges, including all installation and disconnect charges, charges for optional services and charges or deposits for the use of equipment offered to subscribers for use with the service. A verified copy of this list of rates and charges shall then be filed with the Town Clerk and shall be available for public inspection at the office of the Town Clerk. An amended list of rates and charges shall be prepared and filed with the Town Clerk at any time there is any change or adjustment in the subscription rates and charges.

Subd. 2. **Residential Subscriber Contract.** The franchisee shall file with the Town Clerk a copy of the then current residential subscriber contract, if a written contract exists. If no written contract exists, the franchisee shall file with the Town Clerk a document completely and concisely stating the terms of the residential subscriber contract offered to customers, specifically including the length of the subscriber contract. The subscriber contract, or the summary of the terms of the non-written contract on file with the Town Clerk shall be open to inspection by the public and shall govern the contractual relationship between the franchisee and all subscribers receiving service under the authority of this Section, except service provided to institutions, business premises or multiple housing locations, which service may be governed by separate written contract.

Subd. 3. **Rate Regulations.** With regard to all franchises, the Town reserves the right to seek certification by the FCC to engage in the regulation of rates, and implement reasonable regulations during the term of the franchise as permitted by law or the FCC. The Town shall also reserve the right to regulate rates for the installation and rental of equipment for the hearing impaired.

315.09. **Franchise Administrator.** The Town Clerk shall be responsible for day-to-day municipal administration of a franchise. The Town Board may by resolution, create a Cable Commission and appoint members to this Commission. The Cable Commission shall have such duties and delegations as established by the Town Board, and shall serve the Town Board in an advisory capacity. Members of the Cable Commission shall receive compensation as set by the Board and shall serve at the will of the Board. Establishment of and delegation of duties to the Cable Commission shall be by resolution of the Town Board. The Town Board shall retain ultimate authority for the administration of a franchise.

315.10. **Liability Insurance.** A franchisee shall indemnify and hold harmless the Town at all times during the term of the franchise and shall maintain throughout the term of the franchise insurance as follows:

Liability for damage to property	\$ 300,000.00
Liability for personal injury	\$ 500,000.00 per person
	\$1,500,000.00 per occurrence
Workmen's Compensation coverage as required by State law	

These policies shall insure both the Town and the franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the franchise. A franchisee shall provide the Town with evidence of required coverage and shall name the Township as an additional insured.

315.11. **Indemnification.**

Subdivision 1. A franchisee shall hold the Town harmless from any and all claims and actions, litigation and from damage arising out of the construction, erection, installation, maintenance or operation of its property operated by authority of this Section within the jurisdiction of the Town or the negligence of the franchisee's employees in the operation thereof. A franchisee shall defend in the name of the Town any claims made against the Town arising out of the franchise. A franchisee also agrees to hold the Town harmless from and all claims and actions arising from alleged infringements of copyrights.

Subd. 2. Nothing contained in a franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injury to the franchisee's facilities while performing any work connected with grading, regrading or changing the line of any street or public place; or with the construction or reconstruction of any sewer or water system.

315.12. **Performance Bond.** Prior to beginning construction, and within a minimum of three months of the date any franchise becomes effective, the franchisee shall furnish a performance



bond, certificate of deposit or any other type of instrument approved by the Town in the amount as established by the Town, but not to exceed \$75,000. The Town agrees to discontinue said performance bond upon such time as the construction is completed and the Town is satisfied that the performance of the system meets all standards according to this Section.

315.13. **Construction Schedule.** Franchises shall provide service to Town residents within a reasonable time from when the franchise is granted. Absent evidence to the contrary, it shall be presumed that a “reasonable period” is no later than one year from the grant of the franchise.

315.14. **Construction Standards.**

Subdivision 1. **Permits.** The franchisee shall obtain a permit from the proper governmental authority before commencing construction of any communications system, including the opening or disturbance of any street, sidewalk, driveway or public place. If the franchisee fails to meet the conditions of the permit, the franchisor, after reasonable notice to the franchisee, and providing franchisee the opportunity to remedy said complaint, can cause said problem to be remedied and bill the franchisee for the costs incurred in so remedying.

Subd. 2. **Compliance with Codes.** All wire, conduits, cable and other property and facilities of the franchisee shall be located, constructed, installed and maintained in compliance with applicable codes. The franchisee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic or travel upon the streets and public places of the franchise area or endanger the lives or property of any person.

Subd. 3. **Relocation of Wires.** In the event it becomes necessary for the Town to relocate or remove the franchisee’s wires, conduits, cables and other property located in any street, right-of-way or public place to facilitate the undertaking of a public improvement which affects the cable equipment, franchisee shall make all necessary changes in its equipment at its own expense, as requested, upon due notice from the Town Board or its designated officer.

Subd. 4. **Restoration.** Upon completion of the work, the company must restore the general area of the work, including paving and its foundations, to the same condition that existed prior to commencement of the work and must exercise reasonable care to maintain the same condition for two years thereafter. The work must be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all direct, rubbish, equipment and material, and restore the public ground to the same condition, the Town may put it in the same condition at the expense of the company. The company must, upon demand, pay to the Town the direct and indirect cost of the work done for or performed by the Town, including but not limited to the Town’s administrative costs. To recover its costs, the Town will first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy is in addition to any other remedies available to the Town.

Subd. 5. **Company Initiated Relocation.** The company must give the Town written notice prior to a company initiated relocation of facilities. A company-initiated relocation must

be at the company's expense and must be approved by the Town, such approval not to be unreasonably withheld.

Subd. 6. Town Required Relocation. The company must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the Town requires such relocation.

Subd. 7. Relocation Where Public Ground Vacated. The vacation of public ground does not deprive the company of the right to operate and maintain its facilities in the Town. If the vacation proceedings are initiated by the company, the company must pay the relocation costs. If the vacation proceedings are initiated by the Town or other persons, the company must pay the relocation costs unless otherwise agreed to by the Town, company and other persons.

Subd. 8. Inspection of Work. When the work is completed, the company must request an inspection by the director. The director will determine if the work has been satisfactorily completed and provide the company with a written report of the inspection and approval.

Subd. 9. Notice. If the company is in default in the performance of the work authorized by the permit, including but not limited to restoration requirements, for more than 30 days after receiving written notice from the Town of the default, the Town may terminate the rights of the company under the permit. The notice of default must be in writing and specify the provisions of the permit under which the default is claimed and state the grounds of the claim. The notice must be served on the company by personally delivering it to an officer thereof at its principal place of business in Minnesota or by certified mail to that address.

Subd. 10. Town Action on Default. If the company is in default in the performance of the work authorized by the permit, the Town may, after the above notice to the company and failure of the company to cure the default, take such action as may be reasonably necessary to abate the condition caused by the default. The company must reimburse the Town for the Town's reasonable costs, including costs of collection and attorney fees incurred as a result of the company default. The security posted under this Section, will be applied by the Town first toward payment for such reimbursement.

Subd. 11. Use of Public Ground. Facilities must be located, constructed, installed, maintained or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of public ground. The facilities are subject to additional conditions of the permit as established by the director including but not limited to (i) the right of inspection by the Town at reasonable times and places; (ii) the obligation to relocate the facilities pursuant to this Section; and (iii) compliance with all applicable regulations imposed by the Minnesota Public Utilities Commission, Minnesota Rules, Part 7819.0050 et seq., and other state and federal law, including prompt compliance with the requirements of the Gopher State One Call program, Minnesota Statutes, chapter 216D.

Subd. 12. Location. The facilities must be placed in a location agreed to by the Town. The company shall give the Town 45 days' advanced written notice of the company's proposed location of facilities within the public ground. No later than 45 days after the Town's receipt of

the company's written notice, the Town will notify the company in writing of the Town's acceptance or rejection of the proposed location. If the Town rejects the company's proposed location, the Town shall propose alternative locations. The Town does not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

Subd. 13. Emergency Work. A company may open and disturb the surface of public ground without a permit where an emergency exists requiring the immediate repair of its facilities. In such event, the company must request a permit not later than the second working day thereafter and comply with the applicable conditions of the permit. In no event, may the company undertake such an activity which will result in the closing of a street or alley without prior notification to the Town.

Subd. 14. Street Improvements, Paving and Resurfacing. The Town will give the company written notice of plans for street improvements where permanent paving or resurfacing is involved. The notice must contain (i) the nature and character of the improvements; (ii) the streets upon which the improvements are to be made; (iii) the extent of the improvements, the time when the Town will start the work; and (iv) if more than one street is involved, the sequence in which the work is to proceed.

Subd. 15. Company Protection of Facilities. The company must take reasonable measures to prevent the facilities from causing damage to persons or property. The company must take reasonable measures to protect its facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company must take specific protective measures when the Town performs work near the facilities.

Subd. 16. Prior Service Connections. In cases where the Town is undertaking the paving or resurfacing of streets and the facilities are located under such street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the five year period following the paving or resurfacing.

Subd. 17. Public Ground Other than Right-of-Way. Nothing in this Section is intended to grant to the company authority beyond that given by Minnesota Statutes, section 222.37 or Minnesota Rules, Part 7819.0050, et seq., for use of the public right-of-way for construction and operation of facilities. If the Town allows the company to use its non-right-of-way public ground, the terms of this Section apply to the extent they are consistent with the contract, statutory and common law rights the Town owns in such property.

Subd. 18. Regulations; Permit Schedules. The director is authorized and directed to prepare suitable regulations and schedules for the administration of permits issued under this Section.

315.15. **Special Testing**. At any time after commencement of service to subscribers, the Town may require additional tests, full or partial repeat tests, different test procedures or tests involving a specific subscriber's terminal. Requests for such tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance;

and such tests will be limited to the particular matter in controversy. The cost of said testing shall be borne by the franchisee.

#### **315.16. Subscriber Privacy.**

Subdivision 1. No signals of a Class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one year which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV cable communications activity planned for the purpose.

Subd. 2. No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of the names and addresses of the subscribers or any lists that identify the viewing habits of subscribers may be sold or otherwise made available to any party other than the franchisee and its employees for internal business use, or to the subscriber subject of that information, unless the franchisee has received specific written authorization from the subscriber to make the data available.

Subd. 3. Written permission from the subscriber shall not be required for the systems conducting system-wide or individually addressed electron sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing.

#### **315.17. Subscriber Complaints.**

Subdivision. 1. All franchises shall conduct their business in accordance with the customer service standards established by the FCC and 47 C.F.R. § 76.309.

Subd. 2. All complaints by the Town or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to a franchise granted pursuant to this Section shall be investigated by the franchisee within two business days and resolved by the franchisee. Any complaints not resolved to the satisfaction of the complaining party, shall be communicated to the Town. A record of unresolved complaints may be retained by the Town and may be considered by the Town Board in making decisions relating to the franchise.

Subd. 3. A franchisee shall provide to the subscriber a toll-free or collect telephone number for the reception of subscriber complaints and the franchisee shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. Costs included in making repairs and adjustment shall be borne by the franchisee unless it can be clearly determined that the repair or adjustment was

made necessary by abuse or intentional misuse of the system by the subscriber. Costs of installation shall be borne by the subscriber.

**315.18. Unlawful Denial.**

Subdivision 1. A franchisee shall not deny access to cable service because of the income of a resident.

Subd. 2. A franchisee shall not deny access to cable service to a geographical area of the Town because of income demographics.

**315.19. Termination.** The franchising authority shall have the right to terminate and cancel any franchise and all rights and privileges of a franchise, if the franchisee attempts to evade any of the provisions of the franchise or this Section, practices any fraud or deceit upon the Town or its customers, or fails to operate the franchise in accordance with this Section. The Town shall provide the franchisee with a written notice of the cause for termination and its intent to terminate the franchise and shall allow the franchisee a minimum of 30 days after service of the notice in which to correct the violation. The franchisee shall be provided the opportunity for a public hearing before the Town Board prior to the termination of the franchise. In the event that the franchisor determines to terminate the franchise, the franchisee has 30 days from the date of termination of the franchise to take such available action challenging the termination, as provided by law, or its right to challenge termination is waived.

**315.20. Abandonment.** The franchisee may not abandon any portion of the cable communications service provided under a franchise without prior written notice to the Town.

**315.21. Removal of Cable Equipment Upon Termination or Forfeiture.** Upon termination or forfeiture of a franchise, the franchisee shall remove, if the franchising authority so requests, all of its plants, structures, works, pipes, mains, conduits, cables, poles and wires and refill at its own expense any excavation that shall be made by it and shall leave said streets, alleys, public ways and places, in as good condition as that prevailing prior to the franchisee's removal of equipment and appliances. In the event the franchisee fails to do so, the franchisee shall pay to the franchisor as liquidated damages 125 percent of the cost of removal.

**315.22. Town Right to Purchase System.** The Town shall have the right to purchase any franchise or cable system offered for sale pursuant to the same terms and conditions of any bona fide offer to purchase. The franchisee shall provide the Town with a copy of the bona fide written offer, and the Town has 60 days of receipt to exercise its option to purchase. The purchase option shall be exercised in writing. If not exercised within 60 days of notice, the Town's right to purchase is forfeited with respect to that offer, but only that offer.

**315.23. Access Channels.**

Subdivision. 1. Franchise. A franchisee shall provide to each of its subscribers who receive some or all of the services offered on the system, reception on at least one specially

designated access channel. The specially designated access channel may be used by local educational authorities and local government on a first-come, first served nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the franchisee may lease time to commercial or noncommercial users on a first-come, first served nondiscriminatory basis if the demand for that time arises. The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or non-commercial users who have leased time.

Subd. 2. The Town reserves the right to establish rules for the administration of the specially designated access channel and establish reasonable rates for the use and administration of the access channel.

Subd. 3. Franchisees providing only alarm services or only data transmission services for computer-operated functions do not need to provide access channel reception to alarm and data service subscribers.

#### 315.24. **Franchise Fee.**

Subdivision. 1. During the term of any franchise granted hereunder, the franchisee shall pay to the Town quarterly a franchise fee in accordance with the terms of the resolution granting the franchise. The franchise fee shall not exceed five percent of gross revenues. If a franchise fails to state a fee, a fee based on four percent of gross revenues shall be assumed.

Subd. 2. "Gross Revenues" are defined to include revenue derived from the Town system from basic television service, pay cable, advertising, auxiliary services, equipment rental and installation charges.

315.25. **Non-Interference.** Installations shall be maintained so as not to interfere with television reception already in existence within the Town.

315.26. **Line Extension.** The Town shall have the right to require reasonable extensions of the franchisee's transmission and distribution system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide accommodations for the public. The Town may not require an extension into areas where there are less than 25 residential units per mile of trunk or distribution cable as is required.

#### 315.27. **Obscenity.**

Subdivision 1. For purposes of this Section, "obscenity" shall mean a program when, to the average person applying contemporary community standards, the program taken as a whole, appeals to the prurient interest; the program depicts or describes, in a patently offensive way, sexual conduct that is patently offensive, representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated or patently offensive representations or descriptions of masturbation, excretory functions or lewd exhibition of genitals; and the program taken as a whole lacks serious literary, artistic, political or scientific value.

Subd. 2. It shall be a misdemeanor to originate or produce any obscene program which is transmitted over any cable communications system. However, neither the cable communications franchisee whose facilities are used to transmit a program produced by a person other than the cable communications franchisee, nor the officers, directors, or employees of the cable communications franchisee, shall be liable for any penalty or damages arising from any obscene program presented thereon when the franchisee or its employees does not originate or produce a program. Any entity which schedules the programming of the access channels of a cable communications system shall not be liable for the presentation of any obscene program thereon unless the entity itself originates or produces the program.

Subd. 3. Contradictions with State or Federal Law. Any provision of this Section or a franchise which are in direct contradiction to any state or federal law, rule or regulation of cable television franchising, shall be deemed invalid but only to the extent of the contradiction. All other portions of this Section shall continue in full force and effect. As may be possible, all provisions of this Section shall be construed in a manner consistent with state or federal law so as to maintain the validity of those provisions.

315.28. **Additional Franchise Requirements.** All cable communication franchises shall also be subject to the following terms and conditions:

Subdivision 1. The franchisee shall provide for citizen participation in selecting programming, and consider citizen preference.

Subd. 2. The franchisee shall provide customers with reasonable notice of rate changes. "Reasonable notice" shall be a minimum of 30 days.

Subd. 3. The franchisee shall offer customers a device to allow channels to be blocked out.

Subd. 4. All franchises shall be subject to review and renegotiation at any time in the event of a significant change in technology, equipment or regulatory laws, or if the service provided by the franchise fails to meet industry standards with respect to channel capacity, system reliability or quality of signal.

315.29. **Franchise Terms.** All franchises granted pursuant to this Section shall be considered to have incorporated the terms of this Section by reference. In granting a franchise, the Town may incorporate additional terms and conditions, as permitted by law.

315.30. **Enforcement.** The Town reserves the right to enforce any violation of this Section by seeking declaratory or injunctive relief in Stearns County District Court. In the event the Town is the prevailing party in any such action, the Town shall be entitled to judgment for reasonable attorney's fees incurred in pursuing the action.

## CHAPTER IV PUBLIC HEALTH AND SAFETY

### Section 400 – Public Nuisances

400.01. **Public Nuisance Prohibition.** A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purposes of this Section, a person that does any of the following is guilty of maintaining a public nuisance:

- (a) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (b) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (c) Does any other act or omission declared by law or this Section to be a public nuisance.

400.02. **Public Nuisances Affecting Health.** The following are hereby declared to be public nuisances affecting health:

- (a) Exposed accumulation of decayed or unwholesome food or vegetable matter, except for such matter placed in legitimate compost heaps;
- (b) All diseased animals running at large;
- (c) All ponds or pools of stagnant water;
- (d) Carcasses of animals not buried or destroyed within 24 hours after death;
- (e) Accumulations of manure, refuse, garbage, or other debris not contained in tight-covered receptacles;
- (f) Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (g) The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, industrial waste, or other substances;
- (h) All noxious weeds and other rank growths of vegetation upon public or private property;
- (i) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;



- (j) All public exposure of persons knowingly having a contagious disease;
- (k) Any offensive trade or business as defined by statute not operating under local license; and
- (l) Sewage, septic system effluent or seepage from a soil treatment system which may constitute a health hazard, emit foul and disagreeable odors, or otherwise threaten or damage real or personal property of others.

400.03. **Public Nuisances Affecting Morals and Decency.** The following are hereby declared to be nuisances affecting public morals and decency:

- (a) All gambling devices, slot machines and punch boards except as otherwise authorized and permitted by federal, state, or local law;
- (b) Betting, bookmaking and all apparatus used in those occupations;
- (c) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- (d) All places where intoxicating liquor or 3.2 percent malt liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating or 3.2 percent malt liquor, or where intoxicating or 3.2 percent malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place; and
- (e) Any vehicle used for the unlawful transportation of intoxicating or 3.2 percent malt liquor, or for promiscuous sexual intercourse or any other immoral or illegal purpose.

400.04. **Public Nuisances Affecting Peace and Safety.** The following are declared to be nuisances affecting public peace and safety:

- (a) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- (b) All structures, wires and limbs of trees which are less than eight feet above the surface of the ground that hang over any street right-of-way;
- (c) Obstructions and excavations affecting the ordinary use by the public of streets, alleys or public grounds except under such conditions as are permitted by this Code or other applicable law;
- (d) Radio aerials or television antennae erected or maintained in a dangerous manner;

- (e) All interference and disturbance of radios and television sets caused by electrical appliances and equipment or improper operation thereof;
- (f) All use or display of fireworks and use of explosives except as allowed by law;
- (g) Any use of property abutting on a public street or any use of a public street which causes large crowds to gather or obstructs traffic or the free use of the street;
- (h) All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by this Code;
- (i) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (j) Wastewater cast upon or permitted to flow upon streets or other public property;
- (k) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material, in a manner conducive to the harboring of rats, mice, snakes or vermin or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or other safety hazards from such accumulation;
- (l) The storage in any area open to the public, of any unused icebox, refrigerator, freezer or other box with a door attached thereto, which will effectively exclude air when shut;
- (m) Any well, hole, basement, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (n) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash, debris or other materials;
- (o) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or any other substance which may injure any person or animal or damage any vehicle tire when passing over such material;
- (p) The depositing of garbage or refuse on a public right-of-way, public property or on adjacent private property, except if placed inside tightly sealed containers which are placed specifically for garbage or refuse pick up by an authorized public or private contractor;
- (q) Any unattended vehicle which constitutes an obstruction to traffic or hinders snow removal or street maintenance or improvement;

- (r) Any abandoned or junk vehicle as defined in the Minnesota Statutes;
- (s) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (t) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet or repose of another person;
- (u) All unnecessary and annoying vibrations;
- (v) The allowing of rainwater, ice or snow to fall from any building or structure upon any street;
- (w) Reflected glare or light from private exterior lighting exceeding 0.5 foot candles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one foot candle when abutting any commercial or industrial parcel; and
- (x) All other conditions or things which are likely to cause injury to the person or property of another.

400.05. **Noise Nuisances.**

Subdivision 1. Prohibited Noises. The following are declared to be nuisances affecting public health, safety, peace or welfare:

- (a) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes his or her enjoyment of property, or affects his or her property's value;
- (b) All obnoxious noises, motor vehicle or otherwise, in violation of Minnesota Rules, chapter 7030;
- (c) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise;
- (d) The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle (ATV), snowmobile or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;
- (e) Any loud or excessive noise in the loading, unloading or unpacking of any vehicle; or

- (f) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.

Subd. 2. Hourly Restriction of Certain Operations.

- (a) Domestic Power Equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. Snow removal equipment is exempt from this provision.
- (b) Refuse Hauling. No person shall collect or remove garbage or refuse in any residential district, except between the hours of 7:00 a.m. and 10:00 p.m.
- (c) Construction Activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m.
- (d) Radios, Music Devices, Paging Systems, etc. The operation of any device referred to in Section 400.05 between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside of a structure or building shall be prima facie evidence of a violation of this Section.

Subd. 3. Scope of Restrictions. Persons who are in control of, own, or possess a premises may also be found to be in violation of this Section if they knowingly allow the making of the noise on the premises. For purposes of this Section, the term “premises” is defined as:

- (a) For a parcel of real property subject to a single or common fee or leasehold interest, the premises shall consist of the entire parcel of real property and all buildings or structures contained thereon.
- (b) For a parcel of real property subject to multiple fee or leasehold interests, each particular area of the parcel, and buildings or structures contained thereon, subject to exclusive control and occupation by the particular party holding a fee or leasehold interest, shall constitute a separate premises under the control of the person holding the interest.

400.06. Abandoned Property.

Subdivision 1. Purpose. The Town Board finds that abandoned property constitutes a public nuisance and hazard to the health and welfare of the people of the Town in that such

property can harbor noxious diseases, furnish shelter and breeding places for vermin and present physical danger to the safety and well-being of children and other citizens.

Subd. 2. Definitions. The following terms shall have the meaning given them in this Section.

- (a) “Abandoned property” means trailers, boats, machinery, appliances, plumbing fixtures, furniture, scrap metal, packing material, mattresses, motorized vehicles, construction debris, farm machinery, motors, engines, lawn mowers and other inoperable, dissembled or otherwise deteriorated property that is in such a condition that it can no longer be properly used for the purpose it was originally produced or property that has no value other than scrap or junk value.

Subd. 3. Maintenance of Abandoned Property. No person shall keep, place, store or permit abandoned property to be placed on any real property which he or she owns or controls, unless it is stored within a building.

Subd. 4. Exceptions.

- (a) Agricultural. Equipment being used for parts and repairs incidental to the operation and maintenance of a farming operation on property zoned agricultural is excepted from the provisions of this Section provided that the equipment is located at least 300 feet from any abutting residentially zoned property line.
- (b) Commercial and Industrial. This Section does not prohibit a person in the business of servicing or repairing abandoned property from storing the property under repair at a business premises that is either zoned commercial or industrial for a period not to exceed 20 days while awaiting repair.
- (c) Awaiting Removal. This Section does not prohibit a person from keeping abandoned property outside of a building for a period not to exceed 48 hours while awaiting removal of the abandoned property for lawful disposal, or within a rental container which is designed and manufactured for rubbish disposal for up to seven days while awaiting removal and lawful disposal.

400.08. **Enforcement Duties of Officers**. The Town Clerk and Building Inspector shall enforce the provisions of this Section relating to nuisances affecting health and duly authorized county or state health officers may enforce such provisions. The Town Board shall assist such officers in such enforcement. The Town Clerk, Town Board, and county sheriff shall enforce the provisions of this Section relating to nuisances affecting public safety and such officers have the power to inspect public and private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances; however, except in cases of emergency imminently dangerous to the public health, safety or welfare, such inspections must be done pursuant to a search warrant issued by a court of competent jurisdiction if access to private premises for such inspection is denied by the owner or occupant.

400.09. **Abatement**.

Subdivision 1. Notice. Whenever the Town officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the Town, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be given by personal delivery or by certified mail. If the premises are not occupied and the owner is unknown, the notice may be posted on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated. The notice shall also specify that the owner or occupant upon whom the notice is served may request, in writing to the Town Clerk, a hearing before the Town Board. Such hearing must be requested before the deadline for abatement stated in the notice or within 10 days of the date of the notice, whichever date is longer. If the notice is posted, 30 days must elapse between the day of posting and the deadline for abatement. If the notice is not complied with within the time specified, and a hearing has not been requested, the enforcing officer shall take immediate steps to abate the nuisance. If a hearing has been requested, such action may not take place until after the hearing and the Town Board has rendered its decision.

Subd. 2. Emergency Situations. Whenever a situation exists that immediately endangers the lives or health of the public, and under which the above notification procedures would be impractical, the enforcing officer may take immediate steps to abate the nuisance, and such action shall be immediately reported to the owner or occupant and the Town Board.

#### 400.10. **Recovery of Costs**.

Subdivision 1. Personal Liability. The owner of premises on which a nuisance has been abated by the Town shall be personally liable for the cost to the Town of the abatement, including administrative costs and attorneys' fees. As soon as the work has been completed and the cost determined, the Town Clerk shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the Town Clerk.

Subd. 2. Certification. On or before October 1 following abatement of a nuisance by the Town, the Town Clerk shall list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed against each separate lot or parcel to which the nuisance abatement charges are attributable. The Town Board may then spread the charges against such property for certification to the county auditor for collection by the county treasurer and paid to the Town as other taxes are collected and paid.

## **Section 405 – Junk, Abandoned and Unlicensed Vehicles**

405.01. **Abandoned Motor Vehicle Law Adopted by Reference.** Minnesota Statutes, chapter 168B, is, except as modified by this Section, hereby adopted by reference and is as much a part of this Code as if fully set forth herein. A violation of the statutes adopted herein by reference is a violation of this Code.

405.02. **Policy; Purpose; Findings.** The Town Board has found and determined: (i) that the presence of junk, abandoned, unlicensed and unauthorized vehicles on public and private property in the Town constitutes a public health and safety hazard; (ii) that in many instances junk, abandoned, unlicensed and unauthorized vehicles are kept on private property by the owners of the property themselves or by others with the consent of the property owner; and (iii) that it is necessary to adopt regulations for the removal of junk, abandoned, unlicensed and unauthorized vehicles from property that are more stringent than those contained in Minnesota Statutes, chapter 168B.

405.03. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. “Abandoned vehicle” means a vehicle defined as an “abandoned vehicle” by Minnesota Statutes, section 168B.011.

Subd. 2. “Junk vehicle” means a vehicle defined as a “junk vehicle” by Minnesota Statutes, section 168B.011.

Subd. 3. “Unlicensed vehicle” means a vehicle which is not properly licensed for operation.

Subd. 4. “Unauthorized vehicle” means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes, section 168B.04 or 168B.035, but is not a junk vehicle or an abandoned vehicle.

405.04. **Storing or Parking of Vehicles Prohibited.** It is unlawful for any person to park, store or leave any abandoned, unlicensed, unauthorized or junk vehicle, upon any public or private property within the Town, or for any person, as an owner of or occupant having control of private property within the Town to permit the parking, storing or leaving of any abandoned, unlicensed, unauthorized or junk vehicle upon such private property, unless such vehicle is within an enclosed building or structure lawfully situated upon private property or is so parked, stored or left upon private property lawfully zoned and operated as a junk yard.

405.05. **Impounding of Vehicles.** The Town may take into custody and impound any abandoned, unlicensed, unauthorized or junk vehicles that are being stored or parked in violation of this Section.

405.06. **Notice.** When an abandoned, unlicensed, unauthorized or junk vehicle is taken into custody and impounded, the Town must give mailed written notice of its taking to the registered vehicle owner and any lienholders within five days, excluding Saturdays, Sundays and legal holidays. If it is impossible to determine with reasonable certainty the identity and address of the

registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. The notice must include all information required by Minnesota Statutes, section 168B.06.

405.07. **Unauthorized Vehicle; Second Notice.** If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under this Section, a second notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

405.08. **Right to Reclaim.** With the exception of unauthorized vehicles, the owner or any lienholder of an impounded vehicle has the right to reclaim the vehicle from the Town upon payment of all towing and storage charges resulting from the taking of the vehicle into custody within 15 days after the date of the notice required by this Section. The owner of an unauthorized vehicle has the right to reclaim the vehicle from the Town upon payment of all towing and storage charges resulting from the taking of the vehicle into custody within 45 days after the date of the notice required by this Section.

405.09. **Disposition of the Vehicle.** If a vehicle is not reclaimed within the time period set forth in this section, the Town may dispose of or sell the vehicle at auction or sale in accordance with the procedures set forth in Minnesota Statutes, chapter 168B.



## **Section 410 - Animals**

410.01. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. “Animal” means any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. “Animals” shall be classified as follows:

- (a) “Domestic animals” means those animals commonly accepted as domesticated household pets. Unless otherwise defined, “domestic animals” shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians and other similar animals;
- (b) “Farm animals” are those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, “farm animals” shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees and other animals associated with a farm, ranch or stable;
- (c) “Nondomestic animals” means those animals commonly considered to be naturally wild and not naturally trained or domesticated or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, “nondomestic animals” shall include:
  - (1) Any member of the large cat family (family Felidae), including lions, tigers, cougars, bobcats, leopards and jaguars but excluding commonly accepted domesticated house cats;
  - (2) Any naturally wild member of the canine family (family Canidae), including wolves, foxes, coyotes, dingos and jackals but excluding commonly accepted domesticated dogs;
  - (3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;
  - (4) Any member or relative of the rodent family, including any skunk (whether or not descended), raccoon, squirrel or ferret but excluding those members otherwise defined or commonly accepted as domesticated pets;
  - (5) Any poisonous, venomous, constricting or inherently dangerous member of the reptile or amphibian families, including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators;

- (6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

Subd. 2. “At large” means off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain or otherwise restrained or confined.

Subd. 3. “Cat” means both the male and female of the Felidae species commonly accepted as domesticated household pets.

Subd. 4. “Dog” means both the male and female of the canine species, commonly accepted as domesticated household pets and other domesticated animals of a dog kind.

Subd. 5. “Owner” means any person or persons, firm, association or corporation owning, keeping or harboring an animal.

410.02. **Running at Large Prohibited.** It shall be unlawful for any person who owns, harbors or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to allow the dog or cat to run at large. Dogs or cats shall be on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command or by leash, but are permitted in streets or on public land unless the Town has posted an area with signs prohibiting dogs or cats.

410.03. **Nondomestic Animals.** It shall be illegal for any person to own, possess, harbor or offer for sale any nondomestic animal within the Town. Any owner of a nondomestic animal at the time of adoption of this Section shall have 30 days in which to remove the animal from the Town, after which time the Town may impound the animal as provided for in this Section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the Town as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

410.04. **Farm Animals.** Farm animals shall only be kept in an agricultural district of the Town. An exception shall be made to this section for those animals brought into the Town as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

410.05. **Impounding.**

Subdivision 1. **Impounding Services.** The Town Board may contract with the Tri-County Humane Society or other entity to provide impound services. The terms, conditions and fees of impound contained in the Town’s impound contract shall apply to the impounding of any animal as if fully set forth in this Code.

Subd. 2. Running at large. Any animal running at large is hereby declared a public nuisance and may be impounded at the direction of a member of the Town Board or the Town Clerk. The Town shall give notice of the impounding to the owner of the dog or other animal, if known. If the owner is unknown, the Town shall post notice at the Town office that if the dog or other animal is not claimed within the time specified in subdivision 3 of this Section it will be sold or otherwise disposed of. Except as otherwise provided in this Section, it shall be unlawful to kill, destroy or otherwise cause injury to any animal, including dogs and cats running at large.

Subd. 3. Biting animals. Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the Town pound for a period of not less than 10 days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies and upon payment of all costs by the owner. Alternatively, the owner of the animal may elect to immediately, upon receipt of notice of need for the confinement by the officer, confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which the Town is located, and promptly provide proof of confinement in a form acceptable to the Town. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property for the required period.

Subd. 4. Reclaiming. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous dog as defined in Section 410.11, in which case it shall be kept for seven regular business days or the times specified in Section 410.11, and except if the animal is a cruelly-treated animal, in which case it shall be kept for 10 regular business days, unless sooner reclaimed by its owner or keeper as provided by this Section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this Code or by the Town:

- (a) Payment of any release fees;
- (b) Payment of any maintenance costs, as provided by the pound, per day or any part of the day while the animal is in the pound; and
- (c) If a dog designated as dangerous is seized by the Town, it may be reclaimed pursuant to the requirements of this Section and Minnesota Statutes, section 347.54.

Subd. 5. Unclaimed Animals. With the exception of dangerous dogs that have been seized pursuant to Minnesota Statutes, section 347.54, at the expiration of the times established in subdivision 4 of this Section, if the animal has not been reclaimed in accordance with the provisions of this Section, the officer appointed to enforce this Section may let any person claim or adopt the animal by complying with all provisions in this Section or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this Section shall be payable to the Town Clerk. Unpaid amounts

shall be certified to the county for collection with the owner's property taxes. The destruction of dangerous dogs shall be conducted pursuant to the requirements of this Section and Minnesota Statutes, sections 347.54 and 347.56.

#### 410.06. **Kennels.**

Subdivision 1. Definition of a Kennel. The keeping of four or more dogs, cats, or other domestic animals on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel".

Subd. 2. Findings and Prohibition. The Town Board finds and determines the keeping of a kennel within the Town increases the potential for the animals within the kennel to be abused or neglected and can cause discomfort to persons in the area by way of smell, noise, hazard and general aesthetic depreciation. As such, the keeping of a kennel within the Town is hereby declared to be a nuisance, is prohibited, and is a violation of this Section.

Subd. 3. Exceptions. This Section regarding kennels does not apply to properly zoned commercial pet and animal stores; to veterinarians providing medical care; to keeping a newly born litter of pups for a period of 90 days or if a person receives no more than one dog from a recognized animal humane or animal rescue society that has been rescued from abandonment or an abusive situation and the Town is notified prior to receipt of the dog and is provided information as to where the dog came from and the Town is allowed to monitor the progress of the dog. The person rescuing the dog is responsible for the care and expenses of the dog until such time as the dog in the opinion of the animal humane or rescue society determines that the dog can be adopted.

#### 410.07. **Nuisances.**

Subdivision 1. Habitual Barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises. Similar habitual noises by other animals such as cats are also unlawful.

Subd. 2. Damage to Property. It shall be unlawful for any person's dog or other animal to damage any lawn, garden or other property whether or not the owner has knowledge of the damage.

Subd. 3. Animal Waste. The owner of any animal or person having the custody or control of any animal shall comply with the following:

- (a) Clean up any feces of the animal and disposing of the feces in a sanitary manner, whether on the owner's property, on the property of others, or on public property;
- (b) When on public property or private property owned by others have in immediate possession a device for the removal of feces and depository for the transmission

of excrement to a proper receptacle located on the property owned or possessed by such person;

- (c) Properly dispose of animal feces by burying it, when lawfully permitted, flushing in the toilet, or bagging it for disposal in a waste receptacle;
- (d) Disposal of animal waste in storm drains is prohibited; and
- (e) Disposal of animal waste in public compost is prohibited.

The provisions of this subdivision shall not apply to the ownership or use of any properly identified service animals, animals when used for police activities, or tracking animals when used by or with the permission of the appropriate authorities.

Subd. 4. Impoundment. Any animals kept contrary to this Section are subject to impoundment as provided in Section 410.05.

410.08. **Seizing of Animals.** The Town or its authorized officers may enter upon private property and seize any animal, provided that the following exist:

- (a) There is an identified complainant other than the officer making a contemporaneous complaint about the animal;
- (b) The officer reasonably believes that the animal meets either the habitual barking criteria set out in Section 410.07, subdivision 1, the criteria for cruelty set out in Section 410.12 or the criteria for an at large animal set out in Section 410.05, subdivision 2;
- (c) The officer can demonstrate that there has been at least one previous complaint of habitual barking, inhumane treatment of the animal or that the animal was at large at this address on a prior date;
- (d) The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;
- (e) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper or other authorized person to have that key shall not be considered unauthorized entry; and
- (f) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

410.09. **Animals Presenting a Danger to the Public's Health and Safety.** If, in the reasonable belief of the officer, an animal presents an immediate danger to the health and safety of any person, the animal is threatening imminent harm to any person or the animal is in the process of attacking any person, the officer may, as a last resort, destroy the animal in a proper manner.

Otherwise, the officer may apprehend the animal and deliver it to the pound for confinement under Section 410.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the Town for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the Town, it may be released to the owner or keeper in accordance with Section 410.05, subdivision 4.

#### 410.10. **Diseased Animals.**

Subdivision 1. Running at Large. No person shall keep or allow to be kept on his or her premises or on premises occupied by them, nor permit to run at large in the Town, any animal which is diseased so as to be a danger to the health and safety of the public.

Subd. 2. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined in the pound by the Town. The Town shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the public, the Town shall cause the animal to be humanely destroyed and shall properly dispose of the remains. The owner or keeper of the animal destroyed under this Section shall be liable to the Town for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

Subd. 3. Release. If the animal, upon examination, is not found to be diseased, the animal shall be released to the owner or keeper free of charge.

#### 410.11. **Dangerous Dogs.**

Subdivision 1. Attack by a Dog. It shall be unlawful for any person's dog to inflict or attempt to inflict bodily injury to any person or other animal, whether or not the owner is present. This Section shall not apply to an attack by a dog under the control of a law enforcement officer.

Subd. 2. Seizing and Destruction of Dogs. The Town may order the seizing and destruction of dangerous and potentially dangerous dogs in accordance with this Section and Minnesota Statutes, sections 347.50 to 347.565. It is the intent of this Section to be consistent with the requirements in Minnesota Statutes, sections 347.50 to 347.565 concerning potentially dangerous and dangerous dogs and those statutory provisions shall be controlling over any inconsistent or less strict provision contained herein.

Subd. 3. Definitions. For the purpose of this Section, the following definitions shall apply in addition to those contained in Minnesota Statutes, section 347.50.

- (a) "Dangerous dog" shall mean any dog that has:
  - (1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;

- (2) Killed a domestic animal without provocation while off the owner's property; or
  - (3) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.
- (b) "Potentially dangerous dog" means any dog that:
- (1) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
  - (2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
  - (3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- (c) "Proper enclosure" means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio or any part of a house, garage or other structure that would allow the animal to exit of its own volition or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance and shall meet the following minimum specifications:
- (1) Have a minimum overall floor size of 32 square feet;
  - (2) Sidewalls shall have a minimum height of five feet and be constructed of 11 gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the side walls shall be buried a minimum of 18 inches in the ground;
  - (3) A cover over the entire enclosure shall be provided. The cover shall be constructed of the same gauge wire or heavier as the side walls and shall also have no openings in the wire greater than two inches; and
  - (4) An entrance/exit gate shall be provided and be constructed of the same material as the side walls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable

of being locked and shall be locked at all times when the animal is in the pen or kennel.

- (d) “Unprovoked” means the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

Subd. 4. Designation as a Potentially Dangerous Dog. The Town shall designate any dog as a potentially dangerous dog upon receiving evidence that the dog has engaged in any of the acts or behaviors of a potentially dangerous dog as defined herein. When a dog is declared potentially dangerous, the Town shall notify the owner in writing of the potentially dangerous dog designation. The notice shall identify the dog, provide a description of the circumstances that resulted in the designation, and inform the owner of his or her right to request a hearing regarding the designation within 14 days from the date of the notice. If the owner makes a timely request for a hearing, the Town shall call and conduct a hearing as provided in this Section. If the owner does not appeal the designation by requesting a hearing, the Town’s declaration shall stand and the Town may proceed as provided in this Section.

Subd. 5. Effect of Potentially Dangerous Designation. The owner of a dog declared by the Town to be potentially dangerous must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Town Clerk. If the microchip is not implanted by the owner, it may be implanted by the Town. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog’s owner. The owner shall notify the Town in writing if the dog dies, is transferred to someone else, or is otherwise relocated. The notice shall explain what occurred and shall be provided within 30 days of the occurrence. The designation of the dog as potentially dangerous makes it more likely the dog will be declared dangerous if another incident involving the dog occurs.

Subd. 6. Designation as a Dangerous Dog. The Town shall declare a dog as a dangerous dog upon receiving evidence that the dog has engaged in any of the acts or behaviors of a dangerous dog as defined herein. If a dog is declared dangerous, the Town shall notify the dog’s owner in writing of the dangerous dog designation. The notice must be provided in accordance with the requirements set forth in Minnesota Statutes, section 347.541, subdivision 3. The notice shall inform the owner of his or her right to request a hearing regarding the designation within 14 days from the date of the notice. If the owner makes a timely request for a hearing, the Town shall call and conduct a hearing as provided in this Section. If the owner does not appeal the designation by requesting a hearing, the Town’s declaration shall stand and the Town may proceed as provided in this Section.

Subd. 7. Effect of Dangerous Dog Designation. The following shall apply to a dog designated as dangerous.

- (1) The Town may order the destruction of a dog declared dangerous as provided in this section and Minnesota Statutes, sections 347.50 to 347.565. The destruction order shall be included in the notice of the dangerous dog designation and require the owner to submit the dog to the custody of the



Town if the dog is not already in custody. The destruction of the dog shall not occur until after the period to request a hearing has expired without the Town receiving such a request. The order to destroy the dog must be based on one or more of the following findings of fact:

- (a) The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;
  - (b) The dog inflicted multiple bites on a human on public or private property without provocation;
  - (c) The dog bit multiple human victims on public or private property in the same attack without provocation;
  - (d) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or
  - (e) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- (2) It shall be unlawful for any person to harbor a dog declared dangerous and ordered into custody for destruction.
  - (3) If the Town does not issue an order to destroy a dog designated dangerous, the owner shall comply with the requirements of Section 410.05, subdivision 4 of this Code and the applicable provisions of Minnesota Statutes, sections 347.50 to 347.565.

Subd. 8. Exemptions. A dog may not be declared dangerous if the threat, injury or damage was sustained by a person:

- (1) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (2) Who was provoking, tormenting, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
- (3) Who was committing or attempting to commit a crime.

Subd. 9. Right to Request a Hearing. The owner of any dog declared by the Town to be potentially dangerous or dangerous has the right to a hearing to review the designation. The hearing must be requested by the owner in writing within 14 days of the date of the notice. Upon an owner's timely request for a hearing, the Town shall schedule a hearing to be held within 14 days of the date of the request. The Town shall provide the owner notice of the date, time, place

and purpose of the hearing. The hearing shall be conducted by the Town Board or an impartial hearing officer appointed by the Town Board. The records of law enforcement shall be admissible for consideration by the Town or the hearing officer without further foundation. The owner of the dog shall be given an opportunity to speak and provide evidence as to the animal at the hearing. The written decision of the Town Board or the hearing officer regarding the designation shall be provided to the owner within 10 days from the date of the hearing. The order may require the Town to take the dog into custody, if the dog is not already in custody, for destruction. In the event the potentially dangerous or dangerous designation is upheld, the owner shall be responsible for reimbursing the Town's actual expenses related to the hearing up to a maximum of \$1,000.

Subd. 10. Stopping an Attack. If any law enforcement officer is witness to an attack by a dog upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

Subd. 11. Ownership Restrictions. Ownership of dogs is restricted as provided in Minnesota Statutes, section 347.542.

Subd. 12. Review of Designation. The owner of a dog designated potentially dangerous or dangerous may request the Town review the designation at least six months after the declaration. The request shall be in writing and must include evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior or other factors. Upon such a request, and a sufficient preliminary showing of evidence, the Town Clerk shall provide notice and the Town Board shall conduct a hearing regarding the request. The Town Board shall hear and consider the owner's evidence regarding the dog and issue a written decision on whether it will rescind the designation.

Subd. 13. Dangerous Dog Requirements.

- (a) Requirements. If a dog designated as dangerous is not ordered to be destroyed, the owner shall comply with all of the following:
  - (1) The owner shall keep the dog in a proper enclosure when it is on the owner's property;
  - (2) When the dog is outside of the enclosure, it must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
  - (3) The owner shall post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children that there is a dangerous animal on the property as specified in Minnesota Statutes, section 347.51, subdivision 2a. If the owner fails to post the

required warning symbols, the Town may post them and the owner shall be required to reimburse the Town for its costs;

- (4) Within 14 days from the notice of the declaration, the owner shall secure and provide proof of having obtained a surety bond issued by a surety company authorized to conduct business in Minnesota in a form acceptable to the Town in the sum of at least \$300,000, payable to any person injured by the dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in Minnesota in an amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dog;
- (5) The owner shall notify the Town in writing if the dog dies or is transferred to a new location where the dog will reside. The notice shall be provided within 30 days of the death or transfer and, if the dog is transferred, the name, address, and telephone number of the person to whom the dog has been transferred. If the owner moves with the dog, the notice shall include the new address of where the dog will reside;
- (6) The owner shall have the dog sterilized at the owner's expense. If the owner fails to sterilize the dog and provide proof of sterilization to the Town within 30 days, the Town shall seize the dog and have it sterilized at the owner's expense;
- (7) If the owner rents property from another, or the owner rents his or her property to another, where the dog will reside, the owner shall disclose that he or she owns a dangerous dog to the property owner or the renter prior to entering into the lease agreement and at the time of any lease renewal;
- (8) The dog must have an easily identifiable, standardized tag identifying the dog as dangerous and containing the uniform dangerous dog symbol affixed to its collar at all times;
- (9) The owner shall have a microchip implanted in the dog for identification and provide the Town Clerk the name of the microchip manufacturer and identification number of the microchip. If the microchip is not implanted by the owner, the Town may implant it. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner;
- (10) The owner shall register the dog with the county (or with the Town if registration with the county is not available), and pay the required registration fee, within 14 days from the notice of the declaration and shall provide a copy of the certificate of registration to the Town. The registration shall be renewed annual until the dog is deceased; and

- (11) If the owner transfers ownership of the dog he or she shall notify the new owner of the dangerous dog designation and notify the Town of the new owner's name, address, and telephone number.
- (b) Seizure. The Town shall immediately seize any dangerous dog if the owner fails to comply with the requirements imposed on dangerous dogs, or as otherwise provided in Minnesota Statutes, section 347.54. If the owner is convicted in District Court of a crime for failing to comply with the requirements applicable to dangerous dogs, and for which the dog was seized, the District Court may order that the dog be confiscated and destroyed in a proper and humane manner. The District Court may further order the owner to pay the costs incurred in confiscating, confining, and destroying the dog.
- (c) Reclaiming dogs. The owner of a dog seized for failing to comply with the requirements associated with a dangerous dog may reclaim the dog, provided it has not been ordered destroyed, by paying the impounding and boarding fees and presenting proof to the Town that the requirements applicable to dangerous dogs will be met. A dog not reclaimed within seven days may be disposed of in a manner prescribed by law and the owner is liable to the Town for the costs incurred in confining and disposing of the dog.
- (d) Subsequent Offenses. If a dog owner has been convicted of a misdemeanor for violating the requirements imposed on dangerous dogs and the person is charged with a subsequent violation relating to the same dog, the Town shall seize the dog. If the owner is convicted of a subsequent offense, the District Court shall order the dog destroyed. If the owner is not convicted, the dog may be reclaimed, or destroyed if not reclaimed, as provided in this Section.

410.12. **Basic Care**. All animals shall receive from their owners or keepers kind treatment, housing in the winter and sufficient food and water for their comfort. Any person not treating their animal in a humane manner will be subject to the penalties provided in this Code.

410.13. **Breeding Moratorium**. Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat, except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

410.14. **Enforcing Officer**. The Town Board may appoint an animal control officer to enforce the provisions of this Section. In the officer's duty of enforcing the provisions of this Section, he or she may from time to time, with the consent of the Town Board, designate assistants.

410.15. **Interference with Officers**. No person shall in any manner molest, hinder or interfere with any person authorized by the Town Board to capture dogs, cats or other animals and convey them to the pound while engaged in that operation; nor shall any unauthorized person break open the pound, attempt to do so or take or attempt to take from any agent any animal taken up by him

or her in compliance with this Section or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this Section.

410.16. **Keeping of Farm Animals.** Farm animals may only be kept on parcels of land that contain at least five acres in size or larger and then only in compliance with all applicable land use regulations. This subsection does not apply to service animals and for those animals brought into the Town as part of an operating zoo, veterinarian clinic, scientific research laboratory, show or exhibition.

## **Section 415 – Fire and Burning Restrictions**

415.01. **Purpose.** The Town Board has made a determination that unregulated burning within the Town has an adverse effect upon the health, comfort, repose and property of the residents of the Town, specifically finding that unregulated burning:

- (a) Can cause there to be an increased risk of destruction or damage to personal property and structures;
- (b) Can cause air pollution which can affect the public's health, primarily those persons suffering from asthma and other respiratory ailments;
- (c) Can create annoyance to adjacent properties by drifting smoke, soot and odor; and
- (d) Can increase the potential for injury by creating a nuisance attractive to children.

Therefore, the Town Board has enacted this Section restricting the ignition and maintenance of fires and other burning as may occur within the Town.

415.02. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. "Campfire" means a fire ignited for cooking, warming or ceremonial purposes, which is not more than three feet in diameter and no higher than three feet. The ground five feet from the base of the campfire must be cleared of all combustible materials.

Subd. 2. "Forest products" means and includes all products derived from timber.

Subd. 3. "Owner" includes a person owning the fee title to any real property, or the person occupying real property pursuant to a leasehold interest therein.

Subd. 4. "Open fire" or "Open burning" means a fire which is not contained within a fully enclosed fire box or structure from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

Subd. 5. "Person" means any natural person acting either personally or in any representative capacity of any corporation, firm, partnership or an association of any nature or kind.

Subd. 6. "Snow-covered" means that the ground has a continuous, unbroken cover of snow, to a depth of three inches or more, surrounding the immediate area of the fire sufficient to keep the fire from spreading.

Subd. 7. "Timber" means and includes trees, saplings, bushes, seedlings and sprouts from which trees may grow, of every size, nature, kind and description.

415.03. **Prohibition of Fires.** All fires within the Town are prohibited, except for the following:

- (a) Campfires;
- (b) Fires that are contained in a charcoal grill, camp stove or other device designed for the purpose of cooking or heating;
- (c) Fires contained within a building or structure ignited for the purpose of providing heat to the interior of the structure or to be used in the preparation of food;
- (d) Fires ignited for purposes of fire training, permanent tree and brush open burning sites as therein defined by Minnesota Statutes, section 88.17, subdivision 3 (a), pursuant to special permit granted by the local fire warden or other authorized state, county or local authority;
- (e) Fires started pursuant to a permit to burn vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations issued by the State;
- (f) Fires at permanent tree and brush open burning sites that have received a permit to operate from the State pursuant to Minnesota Statutes, section 88.17, subdivision 3 (b);
- (g) Fires ignited for purposes of burning dried leaves between September 15th and December 1<sup>st</sup>, subject to the following conditions:
  - (1) The burning must occur between the hours of 6:00 p.m. and 8:00 a.m.;
  - (2) The burning must not occur within 30 feet of any building or structure; and
  - (3) The smoke from the fire must not blow toward any dwellings that are within 300 feet of the fire.
- (h) Fire ignited when the ground is snow-covered, subject to the following conditions:
  - (1) The fire may not have a base diameter greater than 15 feet; and
  - (2) Burning must occur between the hours of 3:00 p.m. and 8:00 a.m.

415.04. **Prohibited Materials.** Burning of any of the following materials shall be strictly prohibited under any circumstances:

- (a) Motor oil, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tarp paper, insulation, composition board, sheetrock, wiring, paint or paint filters;
- (b) Hazardous waste as defined in Minnesota Statutes, section 116.06, subdivision 11;
- (c) Solid waste generated from an industrial or manufacturing process or from a service or commercial structure;
- (d) Building and salvage materials generated from the demolition of a commercial, industrial or institutional structure. For purposes of this prohibition, a farm building is not considered to be a commercial, industrial or institutional structure;
- (e) Motor vehicles and motor vehicle materials and parts; and
- (f) Discarded materials resulting from the handling, processing, storage, preparation, serving, or consumption of food, unless specifically allowed by Minnesota Statutes, section 17.135.

415.05. **Prohibition of All Burning.** No burning may occur during any time when a burning ban is declared by any state, county or local authority due to an air pollution alert or a fire danger.

415.06. **General Regulations Regarding Permitted Fires.** Subdivision 1. No person shall:

- (a) Ignite or maintain a fire upon the land of another without the permission of the owner or the owner's agent; or
- (b) Ignite or maintain a fire on publicly owned or controlled property except with the permission of the public entity or in areas designated by the public entity for the maintenance of campfires.

Subd. 2. Any authorized fire must be attended by a competent person who is at least 18 years of age. The fire must be attended until it is completely extinguished.

415.07. **Criminal Prosecution.** Violations of any of the provisions of this Section shall be deemed a petty misdemeanor, except the violation of Section 415.04, paragraphs (a), (b) or (c), shall be deemed to be a misdemeanor. Any person who ignites or maintains a prohibited fire may be held responsible. Any person who owns or controls property and knowingly permits a prohibited fire to be ignited or maintained on his or her property shall also be responsible as if that person had actually ignited the fire.

415.08. **Service Charges.** In addition to the criminal prosecution, any person who violates any provision of this Section shall be responsible for any costs or expenses incurred by any public



fire department or the Town related to services rendered in response to fires that were set in violation of this Section. The Town may certify these costs against the real property at which the violation occurred if the costs and expenses are not paid within 30 days of invoice by the Town.

#### **Section 420 – Premises Conducive to High-Risk Sexual Conduct**

420.01. **Findings and Purpose.** The Town Board makes the following findings regarding the need to regulate commercial premises, buildings and structures that are conducive to the spread of communicable disease of danger to persons in order to further the substantial interest of public health:

- (a) The experience of other political subdivisions demonstrates that certain commercial premises, buildings, and structures, or parts thereof, by reason of the design and use of such premises, buildings or structures are conducive to the spread of communicable disease of danger to persons frequenting such premises, buildings or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating such commercial premises, buildings, and structures.
- (b) The experience of other political subdivisions where such commercial premises, buildings and structures are present indicates that the risk of spreading the sexually transmittable disease of Acquired Immune Deficiency Syndrome (“AIDS”) is increased by the presence of such premises, buildings, and structures, because the design or use of such premises, buildings and structures, or parts thereof can facilitate highrisk sexual conduct.
- (c) Medical publications of the Center for Disease Control of the United States Department of Health and Human Services indicate the lasting effects of sexually transmittable diseases such as AIDS. Medical research has further established that the risk factors for obtaining or spreading AIDS and other diseases are associated with high-risk sexual conduct.
- (d) Certain commercial premises, buildings and structures, or parts thereof, by reason of their design and use, are conducive to high-risk sexual conduct and hence the spread of communicable disease, and that the risk of spreading infectious and contagious diseases can be minimized by regulating these commercial premises, buildings, and structures.
- (e) The public health, safety, morals, and general welfare will be promoted by the Town adopting regulations governing commercial premises, buildings, and structures conducive to high-risk sexual conduct.
- (f) The purpose of these regulations is to prescribe regulations governing commercial premises, buildings and structures that are conducive, by virtue of design and use, to highrisk sexual conduct which can result in the spread of sexually transmitted diseases to persons frequenting such premises, buildings, and structures.

420.02. **Definitions.** For purposes of this Section, the following terms have the meanings given them:

Subdivision. 1. “Booths, stalls, or partitioned portions of a room or individual room” means: (i) enclosures specifically offered to persons for a fee or as an incident to performing highrisk sexual conduct; or (ii) enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee, but does not include enclosures that are private offices used by the owners, managers or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

Subd. 2. “Doors, curtains or portal partitions” means full, complete, non-transparent closure devices through which one cannot see or view activity taking place within the enclosure.

Subd. 3. “Hazardous site” means any commercial premises, building or structure, or any part thereof, which is a site of highrisk sexual conduct as defined herein.

Subd. 4. “High-risk sexual conduct” means: (i) fellatio; (ii) anal intercourse; or (iii) vaginal intercourse with persons who engage in sexual acts in exchange for money.

Subd. 5. “Open to an adjacent public room so that the area inside is visible to persons in the adjacent public room” means either the absence of any entire “door, curtain or portal partition” or a door or other device which is made of clear, transparent material such as glass, Plexiglas or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

Subd. 6. “Public health official” means an agent or employee of the Town, or an agent or employee of the county or state charged with the enforcement of the state or local health laws.

420.03. **Public Health Regulations.** Subdivision 1. A commercial building, structure, premises or part thereof, or facilities therein may not be constructed, used, designed, or operated in the Town for the purpose of engaging in, or permitting persons to engage in, sexual activities which include highrisk sexual conduct.

Subd. 2. It is unlawful to own, operate, manage, rent, lease or exercise control of a commercial building, structure, premises or portion or part thereof in the Town, that contains:

- (a) Partitions between subdivisions of a room, portion, or part of a building, structure, or premises having an aperture which is designed or constructed to facilitate sexual activity including, but not limited to, vaginal intercourse, anal intercourse, or fellatio, between persons on either side of the partition; or

- (b) Booths, stalls, or partitioned portions of a room or individual room as defined herein which have doors, curtains, or portal partitions as defined herein unless the booths, stalls, or partitioned portions of a room or individual room have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room as defined herein. Booths, stalls, or partitioned portions of a room or individual room that are so open to an adjacent public room must be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting need not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

420.04. **Exceptions.** The regulations set forth in this Section do not apply to premises, buildings, or structures that are lawfully operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes, or boarding houses which are subject to other general health and sanitation requirements under state and local law.

420.05. **Health Enforcement Powers.** Subdivision 1. In exercising powers conferred by this or any other Section of this Code relating to communicable diseases, the public health official is to be guided by the most recent instructions, opinions and guidelines of the Center for Disease Control of the United States Department of Health and Human Services that relate to the spread of infectious diseases.

Subd. 2. In order to ascertain the source of infection and reduce its spread, the public health official and persons under the public health official's direction and control, may inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, that may be a site of highrisk sexual conduct. If the public health official determines that a hazardous site as defined herein exists, the public health official will declare it to be a public health hazard and public health nuisance and will:

- (a) Notify the manager, owner or tenant of the hazardous site that the public health official has reasonable belief that the premises, building, or structure is a hazardous site as defined herein;
- (b) Issue two written warnings at least 10 days apart to the manager, owner, or tenant of the premises stating the specific reasons for the public health official's opinion that the premises, building, or structure is a hazardous site as defined herein;
- (c) Once such notices and warnings have been issued, the public health official must proceed as follows:
  - (1) After the manager, owner or tenant of the premises has been notified in writing as to the basis of the public health official's determination, the manager, owner or tenant will have 10 days from the date of the last warning to request a hearing before the public health official or the public health official's appointee for the determination as to the existence of such hazardous site. If the manager, owner or tenant of the premises does not

request a hearing within 10 days of the date of the last warning notice, the public health official will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site and the public health official will cause orders to be issued to the manager, owner or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent highrisk sexual conduct from taking place within the premises.

- (2) If the manager, owner, or tenant of the premises requests a hearing, the hearing will be held before the public health official or the public health official's appointee at a date not more than 30 days after demand for a hearing. After considering all evidence, the public health official or the public health official's appointee will make a determination as to whether the premises constitute a hazardous site, as defined herein and issue a decision based upon all hearing evidence presented. If the public health official or the public health official's appointee makes a determination that the premises constitute a hazardous site, the public health official will then issue orders to the manager, owner or tenant of the premises to take corrective measures to prevent highrisk sexual conduct from taking place within the premises and cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site.
- (3) If, within 30 days after issuance of the orders to the manager, owner or tenant of the hazardous site, the public health official determines that such corrective measures have not been undertaken, the public health official: may order the abatement of the hazardous site as a public nuisance, which may be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or, may secure a court order for the closure of the premises constituting the hazardous site until the premises, building or structure is in compliance with all provisions of this Code.

420.06. **Criminal Penalties.** A person violating any provision of this Section or any person who removes, destroys, or defaces warnings posted on premises by the public health official pursuant to section shall be guilty of a misdemeanor.

## **Section 425 – Solid Waste**

425.01. **Definitions.** For purposes of this Section, the following terms have the meanings given them:

Subdivision 1. “Collectors” means all persons who are in the business of picking up and transferring to an appropriate disposal facility any solid waste or recyclable materials and which has a license to engage in such business issued by the County and all other appropriate authorities.

Subd. 2. “Person” means any human being, municipality or other governmental entity, any partnership, firm, association, corporation, or any legal representative of the foregoing.

Subd. 3. “Recyclable materials” means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

Subd. 5. “Solid waste” means garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility and other discarded waste materials and sludges, in solid, semisolid, liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to control permits under the Clean Water Act, dissolved materials in irrigation return flows, or source, special nuclear or by-product material as defined by the Atomic Energy Act.

425.02. **Mandatory Collection.** All households and businesses are hereby required to contract for the collection of solid waste or ensure that a sound environmental alternative is used for the disposal of solid waste. For purposes of this Section, “contracting for services” means hiring collectors to collect and dispose of the solid waste.

425.03. **Volume Based Fees.** Collectors of solid waste from residences and businesses must charge for collection on the basis of volume or weight of solid waste collected so that the fee charged increases as the volume or weight of the solid waste collected from the residence or place of business increases.

425.04. **Recyclables Collection.**

Subdivision 1. All collectors providing service to residential and commercial customers must provide for the collection of at least three types of recyclable materials from each customer at least once per month.

Subd. 2. All collectors must submit an annual report to the Town, on or before January 31<sup>st</sup> of each calendar year for the previous calendar year, identifying the weight in tons of all recyclable

materials and all other solid waste collected from the Town customers. The report must identify each type of recyclable materials collected.

425.05. **Anti-Scavenging.** Ownership of recyclable materials set out for collection shall be vested in the collectors of the recyclable materials. It shall be unlawful for any person to take recyclable materials from collection bins on property not owned or controlled by him or her for his or her own use.

425.06. **Variances.** The Town may exempt a residential household or business in the Town from the requirement to have a solid waste collection service if the household or business ensures that an environmentally sound alternative is used to provided that written documentation is provided to the Town. To promote the effective and reasonable application of this Section, the Town may grant a variance only for good cause shown.

**CHAPTERS V & VI**  
**ZONING AND SUBDIVISION REGULATIONS**

[Chapters V and VI are inserted at the end of the Code]

## **CHAPTER VII BUILDING, HOUSING AND CONSTRUCTION REGULATIONS**

### **Section 700 – Building Code**

700.01. **Building Code.** Subdivision 1. Building Code Adopted. The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes, sections 326B.101 to 326B.16, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this Section. The Minnesota State Building Code is hereby incorporated into this Section as if fully set out herein.

Subd. 2. Building Code Optional Chapters. The Minnesota State Building Code, established pursuant to Minnesota Statutes, section 326B.101 to 326B.194 allows the Town to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the Town:

None.

Subd. 3. Administration and enforcement. The application, administration and enforcement of the building code shall be in accordance with Minnesota Rules, chapter 1300. The Town building official designated by the Town Board will be responsible for the administration and enforcement of the building code within the Town. The designated Town building official must be certified by the State of Minnesota pursuant to Minnesota Statutes, section 326B.133, subdivision 2. The building official will be responsible for all aspects of code administration.

700.02. **Permits and Fees.** The issuance of permits and the collection of fees shall be as authorized Minnesota Statutes, section 326B.153. Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule adopted by the Town Board. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with Minnesota Statutes, section 326B.148.



## **Section 705 – Private Swimming Pools, Spas and Hot Tubs**

705.01. **Definitions.** Subdivision 1. For purposes of this Section, the terms defined in this subsection have the meanings given them as follows:

- (a) “Swimming pool, spa or hot tub” means any pool or open tank not located within a completely enclosed building and with a surface area of 50 square feet or more that holds more than 100 gallons of water, excluding natural bodies of water.

Subd. 2. **Requirements for Swimming Pools, Spas and Hot Tubs.** The following conditions and requirements must be followed for swimming pools, spas and hot tubs:

- (a) Swimming pools, spas and hot tubs must meet the structure setbacks listed for the zoning district in which they are located. In no case may a swimming pool, hot tub or spa be located closer than 10 feet to any property line.
- (b) All swimming pools, spas and hot tubs must be equipped with safeguards to prevent children from gaining uncontrolled access by the use of a fence or enclosure, or any combination thereof, of sufficient density as to be impenetrable. If a fence is used, it must be at least six feet in height. The bottoms of the fence must not be more than four inches from the ground. Fences must be of a non-corrosive material and must be constructed so as to be not easily climbable. All fence openings or points of entry into the pool, spa or hot tub enclosure must be equipped with gates or doors. All gates or doors to swimming pools, spas and hot tubs must be equipped with selfclosing and selflatching devices placed at sufficient height so as to be inaccessible to small children.
- (c) Rented portable spas and hot tubs are exempt from (a) and (b) of this Section for a period not to exceed 48 hours, provided they are secured when not in use.

## **Section 710 – Soil Erosion and Sediment Control**

710.01. **Soil Erosion and Sediment Control.** Subdivision 1. General Rule. The following standards apply to all development and activity that necessitates grading, stripping, cutting, filling or exposure of soils.

### Subd. 2. General Standards.

- (a) Development must conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- (b) Development on slopes with a grade between 12 and 18 percent must be reviewed by the Town to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- (c) Erosion and siltation control measures must be coordinated with the different stages of development. Appropriate control measures must be installed prior to development when necessary to control erosion.
- (d) Land must be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land must be exposed at any one period of time.
- (e) Where the topsoil is removed, sufficient arable soil must be set aside for re-spreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- (f) The natural drainage system must be used as far as is feasible for storage and flow of runoff. Storm water drainage must be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps may be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater must provide for natural or artificial water level control. If constructed, temporary storage areas or retention basins scattered throughout developed areas must be constructed to reduce peak flow, erosion damage and construction cost.
- (g) Public and private properties adjacent to the development site must be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the Town within five days of receiving notification of such. If the violation is not remedied within the time period specified, the Town may correct the problem and assess the costs incurred to the property owner.

Subd. 3. Exposed Slopes. The following control measures must be taken to control erosion during construction:

- (a) An exposed slope may not be steeper in grade than four feet horizontal to one foot vertical.
- (b) At the foot of each exposed slopes, a channel and berm should be constructed to control runoff. The channeled water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- (c) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures must be taken to prevent erosion. Such measures consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipater should be installed to prevent erosion at the discharge end.
- (d) Exposed slopes must be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material and expected length off exposure. Slope protections must consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes and netting, or should be worked into the soil to provide additional slope stability.
- (e) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

Subd. 4. Ground Cover. A residential property must be maintained in a condition to control erosion, dust and mud by installing suitable landscaping that includes grass, trees, shrubs or other planted ground cover or by paving with asphalt or concrete.

#### 710.02. **Preservation of Natural Drainageways.**

##### Subdivision 1. Waterways.

- (a) Every effort must be made to retain the natural drainage systems in the Town including existing wetlands and ponds. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.
- (b) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a 10 year storm. Adequacy is determined by the expected runoff when full development of the drainage area is reached.

- (c) Fences or structures may not be constructed across the waterway that will reduce or restrict the flow of water.
- (d) The banks of the waterway must be protected with permanent vegetation or rip-rap and should not exceed four feet horizontal to one foot vertical in gradient.
- (e) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (f) The bed of the waterway should be protected with turf, sod or concrete. If turf or sod will not function properly, rip-rap may be used. Rip-rap shall consist of quarried limestone, fieldstone (if random rip-rap is used) or construction materials of concrete. The rip-rap shall be no smaller than two inches square or no larger than two feet square. Construction materials must be used only in those areas where the waterway is not used as part of recreation trail system.
- (g) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip-rap will be allowed to prevent erosion at these points.

Subd. 2. Sediment Control of Waterways

- (a) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures must be incorporated throughout the contributing watershed.
- (b) Temporary pervious sediment traps may consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures will serve a temporary sediment control features during the construction state of development. Development of housing and other structures are restricted from the area on either side of the waterway required to channel a 25 year storm.
- (c) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins or silt traps) and must be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

**CHAPTERS V & VI**  
**LE SAUK TOWNSHIP ZONING AND SUBDIVISION REGULATIONS**

*Adopted April 20, 2020*  
*Amended October 24, 2020*

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## **CHAPTERS V & VI LE SAUK TOWNSHIP ZONING AND SUBDIVISION REGULATIONS**

### **Section 500 – Title and Authority**

#### **500.01. Title; Authority; and Administration.**

Subdivision 1. Title. This Chapter shall be known, cited and referred to as the “Le Sauk Township Zoning and Subdivision Regulations” and shall be referred to herein as this “Chapter.”

Subd. 2. Authority. This Chapter is adopted pursuant to the Town Board’s authority under Minnesota Statutes, section 462.351 to 462.364 and such other law as may apply. This Chapter does not rely on the authority provided in Minnesota Statutes, sections 366.10 to 366.181 and the procedures and requirements of those sections do not apply to this Chapter. The land within the Town is within a designated orderly annexation area and so this Chapter is also based on the authority in Minnesota Statutes, section 414.0325, subdivision 5, which allows the Town and City to delegate authority to a joint planning board and to otherwise establish procedures to accomplish planning and land use control within the designated area. The Town and City have negotiated differing procedures based on the particular zoning district and the type of the zoning request. This shared-authority process will enable the continued development of the Town in a manner that will not unduly interfere with the orderly and planned growth of the City.

Subd. 3. Jurisdiction. This Chapter shall apply to all areas within Le Sauk Township, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.

Subd. 4. Administration. The Town entered into a joint powers agreement with the City of Sartell to establish the Le Sauk Township-City of Sartell Joint Planning Board (“Joint Planning Board”). This Chapter is adopted by the Joint Planning Board and is being incorporated into this Code to maintain the Chapters in effect for the Town in the same set of regulations. This Chapter shall be administered in conjunction with the Joint Planning Board and the City as provided in the joint powers agreement and the provisions of this Chapter. The Town Board delegates to the Joint Planning Board and City, and the Joint Planning Board delegates to the Town Board, such authority as may be needed to carry out their respective roles and duties under this Chapter.

Subd. 5. Joint Planning Board Reports. The Joint Planning Board shall report to the Town Board or City Council on any matter referred to the Joint Planning Board within 45 days after such referral. After 45 days have elapsed, the Town Board or City Council may proceed as prescribed herein without the Joint Planning Board report.

500.02. **Intent and Purpose**. This Chapter is adopted for the purpose of:

- (a) Protecting the public health, safety, morals, comfort, convenience and general welfare;
- (b) Dividing the Town into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of structures and land;
- (c) Promoting protection and orderly development within the established zoning districts;
- (d) Providing for adequate light, air, and convenience of access to property by regulating the construction of buildings to control density of population;
- (e) Providing for the compatibility of different land uses and the most appropriate use of land within the Town;
- (f) Working cooperatively with the City to plan for the orderly growth of the City in a manner consistent with the orderly annexation agreement and the City's planned extension of services;
- (g) Providing for the administration of this Chapter defining the powers and duties of the administrative officers and the respective roles of the Town, Joint Planning Board, and City in the administration of this Chapter; and
- (h) Prescribing penalties for violating the provisions of this Chapter.

500.03. **Additional Regulations.** Properties within the Town are also subject to certain regulations adopted by Stearns County. In cases where both this Chapter and the County regulations apply to the development of property, the owner must obtain all required approvals from both the Town and the County. Obtaining approval from one entity does not constitute approval by the other. The County is responsible for administering and enforcing its regulations and the Town is responsible for administering and enforcing this Chapter.

Subdivision 1. **Floodplains.** Those portions of the Town designated as floodplain areas according to the applicable FEMA maps shall be regulated by the County pursuant to its applicable ordinances and any permits required under the County's floodplain ordinance shall be obtained from the County. The designated floodplain areas within the Town shall be treated as an overlay district for the purposes of this Chapter and the land within the overlay shall be subject to the underlying regulations applicable in the primary zoning district imposed by this Chapter including, where applicable, the need to obtain one or more permits under this Chapter.

Subd. 2. **ISTS/SSTS.** The County is responsible for administering and enforcing Minnesota Rules, Chapters 7080-7083 regulations regarding individual subsurface sewage treatment systems (ISTS) or subsurface sewage treatment system (SSTS) in the Town.

500.04. **Conflicts.** It is the intent and it is hereby declared that this Chapter shall not conflict with any State Law. To the extent any provision of this Chapter conflicts with any provision in

any other Chapter of the Town's code of ordinance, the provisions of this Chapter shall prevail and be controlling.

500.05. **Compliance.** No structure shall be erected, placed, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Chapter. Construction of all structures and the established and operation of all uses must be in accordance with the application, plans, permit, and any applicable variances. Land use permits, site plan approvals, conditional use permits, and interim use permits issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Chapter unless a new or amended permit or variance is first obtained as provided in this Chapter.

500.06. **Application of Regulations.**

Subdivision 1. **Minimum Requirements.** The provisions of this Chapter, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. The provisions of this Chapter shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any powers granted the Town by law.

Subd. 2. **Stricter Regulations.** Where the standards, regulations, or requirements imposed by any provision of this Chapter are either more or less restrictive than comparable standards, regulations, or requirements imposed by any other ordinance, rule, or regulation of the Town, County, State, or Federal government, the statute, ordinance, rule, or regulation which imposes the more restrictive condition, standard, regulation, or requirement shall prevail.

Subd. 3. **Consistency.** Should any provision in this Chapter conflict with, or be found inconsistent with Minnesota Statutes, Chapter 462, the provisions of the applicable section of Minnesota Statutes, Chapter 462 shall apply, and supersede the inconsistent or conflicting terms of this Chapter. It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

500.07. **Prior Zoning Regulations.** This Chapter supersedes and replaces all previous land use, zoning, and subdivision ordinances adopted for the Town and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Town's previous zoning and subdivision ordinances does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

500.08. **Severability.** If any section, subsection, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building, or

structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

## **Section 505 – Interpretation and Definitions**

### **505.01. Rules of Interpretation.**

Subdivision 1. Rules. Interpretation of the language and provisions of this Chapter shall be the responsibility of the Town Board with recommendations from the Joint Planning Board. The language set forth in the text of this Chapter shall be interpreted in accordance with the rules of construction in this section.

- (a) The word “person” includes firm, association, organization, company, partnership, cooperative, or corporation as well as an individual.
- (b) The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
- (c) The word “shall” is mandatory and the word “may” is permissive.
- (d) The word “lot” shall include the words “plot,” “piece,” “parcel,” and “property” and shall be interpreted broadly to give full effect of the provisions of this Chapter.
- (e) All distances, unless otherwise specified, shall be measured horizontally.
- (f) References in this Chapter to any statutes, rules, regulations, or ordinances shall include any amendments to, or successors of, those statutes, rules, regulations, or ordinances. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Chapter. However, such incorporations are intended only to give effect to this Chapter and are not intended to make the Town responsible for the administration or enforcement of the referenced statutes, rules, regulations, or ordinances.
- (g) Whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be constructed as set forth in such definition. If no set definition is given in this Chapter, the word or term shall have the meaning given it in the Minnesota Statutes, Minnesota Rules, or the most applicable Stearns County ordinance to the extent the term is given a specific definition therein. Any question as to the meaning of a word or term used in this Chapter shall be determined by the Town Board.
- (h) General words are construed to be restricted in their meaning by preceding particular words.
- (i) The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of

interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the Town Board finds to be substantially similar as provided in this Chapter.

- (j) General references to the Town shall include the Joint Planning Board and the City Council to the extent needed to give effect to the respective roles those bodies play in the administration of this Chapter.

Subd. 2. Restrictions on Uses. Only the uses identified as being allowed in the list of uses for a particular zoning district, and those found by the Review Authority to be substantially similar uses as provided herein, are allowed within the zoning district. References to other uses in this Chapter, such as in the performance standards, are not intended, and shall not be interpreted, as expanding the uses allowed within a particular district, with the exception of uses allowed by the Town Board as being substantially similar to uses otherwise allowed within the district.

Subd. 3. Statutorily Allowed Uses. The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Chapter, this Chapter shall be interpreted as allowing those uses the legislature expressly requires the Town to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statutes, section 462.357, subdivision 7 requires a licensed day care facility serving 12 or fewer persons to be considered a permitted single family residential use of property. As such, this Chapter shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Chapter. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the Town. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Chapter and all other applicable laws.

Subd. 4. Essential Services. Notwithstanding anything to the contrary in this Chapter, essential services shall be permitted as authorized and regulated by State law and other Chapters of the Town, it being the intention that such services are exempt from the application of this Chapter, except to the extent expressly provided otherwise herein.

505.02. Definitions. For the purposes of this Chapter, the following terms shall have the meaning given them in this section. With respect to shoreland regulations, a term not defined herein shall have the meaning given it in the County Ordinance. With respect to any other term not defined herein, it shall have the meaning given it in the City's zoning regulations and, if not defined therein, in the most applicable Minnesota statutory or rule definition.



Subdivision 1. “Abandoned Sign” means a sign which no longer identifies or advertises a bona fide business, lessor/landlord, service, owner, product or activity or for which no legal owner can be found.

Subd. 2. “Accessory Building” means a subordinate building or structure on the same lot exclusively occupied by or devoted to a use incidental to the main use.

Subd. 3. “Accessory Use” means a use subordinate to the principal use on the same lot and customarily incidental thereto.

Subd. 4. “Administrative Permits” means those permits issued by the Town as the Review Authority. The term includes building permits, sign permits, solar permits, shoreland alteration permits, certificates of compliance, and any other type of permit not specifically assigned to a specific review procedure with an identified Review Authority.

Subd. 5. “Alley” means a public right-of-way which normally affords a secondary means of access to abutting property, not used for general traffic circulation.

Subd. 6. “Alteration” means any change in a building affecting its supporting members, including, but limited to, bearing walls or partitions, beams, girders, roofs or exterior walls.

Subd. 7. “Antenna” means any structure or device used for the purpose of collecting or transmitting electrical magnetic waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

Subd. 8. “Awning Sign” means a sign painted on, printed on, or attached flat against the surface of an awning.

Subd. 9. “Balloon or Inflatable Devices” means a moveable object consisting of rubber, vinyl, plastic, or a similar material which is capable of being inflated with air or gas to enlarge, swell or distend from internal pressure.

Subd. 10. “Banner” means a sign made of fabric or any non-rigid material with no enclosing framework temporarily mounted to a building, structure, or the ground at two or more edges.

Subd. 11. “Bannerette” means a small banner not exceeding four square feet in size.

Subd. 12. “Basement” means a portion of a building located partially underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground. Basements, except portions used for garage, shall be used in arriving at total gross floor area.

Subd. 13. “Bench Sign” means a permanent sign consisting of durable material attached to a bench or other similar type of outdoor furniture or seating. Such signage shall not be considered to be an off-premises advertising or billboard sign.

Subd. 14. “Billboard” means an off-premises sign on which lettered, figured or pictorial matter is displayed that has a display surface area of 250 square feet or more.

Subd. 15. “Block” means an area of land within a Subdivision that is entirely bounded by streets, or by streets and exterior boundaries or boundaries of the Subdivision, or a combination of the above with a natural waterway.

Subd. 16. “Board of Appeals and Adjustments” means the board established to take final actions on variance requests and to otherwise carry out the powers and duties provided it in Minnesota Statutes, sections 462.357, subdivision 6, 462.359, subdivision 4, and this Chapter. The Review Authority serves as, and conducts the business of, the Board of Appeals and Adjustments. For Type 1 and Type 2 review procedures, the Town Board serves as the Board of Appeals and Adjustments. For Type 3 review procedures, the Joint Planning Board serves as the Board of Appeals and Adjustments. For Type 4 review procedures, the City Council serves as the Board of Appeals and Adjustments. The Review Authority shall also serve as the Board of Appeals and Adjustments for the purposes of reviewing and deciding an appeal from an alleged error in any order, requirement, decision, or determination made by an administrative officer of the Review Authority regarding a particular request on which it is the final decision-making authority. To the extent an appeal does not clearly relate to a particular zoning request for which there is an identified Review Authority, the Town Board shall serve as the Board of Appeals and Adjustments to decide the appeal.

Subd. 17. “Boundary Lines” means any line indicating the bounds or limits of any tract or parcel of land; also a line separating the various use districts as shown on the zoning map.

Subd. 18. “Buildable Area” means the space remaining on a zoning lot after the required yards and setbacks have been provided.

Subd. 19. “Building” means any structure providing shelter for persons, animals or chattel of any kind which is built, constructed, or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground, including porches and sunrooms; or any piece of work artificially built up and/or composed of parts joined together in some definite manner. When separated by bearing walls without openings each portion so separated shall be considered as a separate building. A building shall be the principal building on the lot for purposes of this Chapter if it is the building or structure in which the main or principal use of the lot is situated.

Subd. 20. “Building Face” means the exposed face of a building, including windows and doors, from ground level to the roof line.

Subd. 21. “Building Height” means the vertical distance from the “grade” to the highest point on the structure.

Subd. 22. “Building Setback Line” means a line within a lot or other parcel of land so designated on the plat, parallel to the street right-of-way, and ordinary high water level, if applicable, at its closest point to any story level of a building and representing the minimum distance which all or part of the building is set back from said right-of-way line, or ordinary high water level.

Subd. 23. “Bulletin Board” means a sign announcing coming events or activities through the use of changeable copy that does not exceed 24 square feet in size.

Subd. 24. “Canopy Sign” means a sign affixed or applied to the exterior facing surface or surfaces of a building or freestanding canopy.

Subd. 25. “Cellar” means that portion of a building having more than half of the clear floor to ceiling height below the average grade of the adjacent ground. Cellars shall not be included in arriving at total gross floor area.

Subd. 26. “City” means the City of Sartell, Minnesota.

Subd. 27. “City Council” means the City Council for the City of Sartell, Minnesota.

Subd. 28. “Clearance (of a Sign)” means the shortest vertical distance between the grade of the adjacent street, highway, or street curb, and the lowest point of any sign, including framework and embellishments, extending over that grade.

Subd. 29. “Commercial Use” means the use of land for the purchase, sale, or administration of goods and services, or for the manufacture or fabrication of goods from raw materials or component parts. This term is used to describe existing uses within the Legacy Commercial District (C-1).

Subd. 30. “Commercial Wireless Telecommunications Services” means licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Subd. 31. “Conditional Use Agricultural Home Occupation” means a business, occupation or profession permitted to be conducted on an agricultural parcel that meets all conditions.

Subd. 32. “Conditional Use Permit” means a permit issued in accordance with the provisions of this Chapter to allow a particular use on a lot within a zoning district that allows the use as a conditional use. The permit runs with the land and its use is allowed to continue provided the conditions imposed on the permit are not violated.

Subd. 33. “Contour Map” means a topographic map showing the irregularities in the elevation of land surface through the use of lines connecting points of equal elevation. Contour interval is the vertical height difference between the connecting lines on a contour map.

Subd. 34. “Copy” means a print reproduction made from a tracing or transparency.

Subd. 35. “Copy, sign” means the graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic, or alphabetic form.

Subd. 36. “County” means Stearns County, Minnesota.

Subd. 37. “County Ordinance” means the most current enactment of the Stearns County Land Use and Zoning Ordinance.

Subd. 38. “Cul-de-sac” means a short minor street having one open end and being permanent terminated at the other end by a vehicular turn-around.

Subd. 39. “Day Care Facility” means a state licensed residential facility serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, a group family day care facility licensed by the State of Minnesota to serve 14 or fewer children.

Subd. 40. “Deflection Angle” means the angle between a line and the prolongation of the preceding line.

Subd. 41. “Design Standard” means the specifications for the preparation of preliminary and final plans indicating minimums and maximums in the dimensions, magnitude and capacity in such features such as the layout and construction of streets, lots, blocks, drainage and other required improvements.

Subd. 42. “Development” means the act of building structures and installing site improvements.

Subd. 43. “Development Agreement” means a contract between the Subdivider and the Town requiring that the Subdivider furnish and construct necessary improvements at the Subdivider’s expense and other conditions which may be set by the Town Board.

Subd. 44. “Directional or Way Finding Sign Off-Premise” means an off-premise sign which directs the public to a parcel where a business or use is located.

Subd. 45. “Directional Sign, Off Premise” means an off-premise sign which directs the public to a parcel where a business or use is located.

Subd. 46. “Dog Kennel, Commercial” means any place where more than two dogs over six months of age are kept, raised, sold, boarded, bred, or groomed as part of a business.

Subd. 47. “Double Faced Sign” means a sign with two faces, either back-to-back, or in a V-shaped construction.

Subd. 48. “Dwelling Unit” means any building or portion thereof which is designed or used exclusively for residential purposes.

Subd. 49. “Dynamic Display” means any sign, portion of a sign or characteristics of a sign that appears to have movement or that appears to change and which is caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, waving, flashing, blinking, or animated display; or structural element and any display that incorporates rotating panels, LED lights manipulated through digital input, “digital ink”, incandescent bulbs, or any other method or technology that allows a sign face, or any other device, to present a series of images or displays.

Subd. 50. “Dynamic Display Programming” means the hardware, software and all necessary equipment and operations associated with the control and programming of a dynamic display.

Subd. 51. “Easement” means a grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.

Subd. 52. “Essential Services” means the erection, construction, alteration or maintenance of underground or overhead gas, electrical, telephone, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies.

Subd. 53. “Excavation” means the digging, removal, filling with, or storage of any naturally occurring rock, sand, gravel, clay, silt, soil, or other like mineral(s) being conducted within the Town of Le Sauk.

Subd. 54. “Face of Sign” means the area of a sign on which the copy is placed.

Subd. 55. “Feedlot” or “Animal Feedlot” means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered animal feedlots. For purposes of these parts, petting zoos, horse stalls, riding arenas, open lots and mink farms shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots. Animal feedlot shall include any manure storage structure.

Subd. 56. “Final Plat” means the drawing or map of a Subdivision prepared for filing of record pursuant to Minnesota Statutes, Chapter 505, and containing all elements and requirements set forth in applicable requirements adopted pursuant to Minnesota Statutes Section 462.358 and Chapter 505.

Subd. 57. “Flood Areas” means land which is subjected to either permanent or temporary flooding from any cause whatsoever. This shall include lands which are flooded by overflowing streams, rivers or lakes or by heavy rain storms or seasonal run-off.

Subd. 58. “Flood Fringe Area” means that portion of the flood plain outside of the floodway.

Subd. 59. “Flood Plain” means the area adjoining a watercourse and those portions of the adjoining flood plains which has been or hereafter may be covered by the regional flood.

Subd. 60. “Floodway” means the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Subd. 61. “Floor Area” means the sum of the horizontal areas of the several floors of a building measured from the exterior walls including basements, all floors and attached accessory buildings.

Subd. 62. “Freestanding Sign” means a sign supported permanently upon the ground by poles or braces and not attached to any building.

Subd. 63. “Frontage” means the width of a lot or building site measured on the line separating it from the public street or way. (For the purposes of this Chapter, the front line of corner lots shall be considered to be the shortest street line.)

Subd. 64. “Fur Bearing Animal” means fox, mink, fitch, chinchilla, karakul, marten, nutria, or fisher that is the second or later generation raised in captivity.

Subd. 65. “Garage, Private” means a building, whether attached or detached to the residential dwelling, which is intended principally for and is used to store the private passenger vehicles of the family or families which reside upon the premises. If the residential dwelling on the property has an attached garage, any additional buildings on the property shall be considered accessory buildings. If the residential dwelling does not have an attached garage, one detached garage on the property shall be allowed and shall not be considered an accessory building for the purposes of the limitation on the number of accessory buildings or their combined total size.

Subd. 66. “Government Sign” means any temporary or permanent sign erected and maintained by the Town, City, County, State or federal government.

Subd. 67. “Gravel” means non-metallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, building stone, crushed rock, limestone, and granite.

Subd. 68. “Ground Sign” means a sign which is anchored to the ground in a similar manner as a pylon or freestanding sign, but with a monolithic or columnar line and which maintains essentially the same contour from grade to top. Height and setback requirements are the same as for freestanding signs.

Subd. 69. “Group Residence Facility” means a state licensed residential facility serving up to 16 persons or a licensed day care facility serving up to 16 persons.

Subd. 70. “Height of Sign” means the vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

Subd. 71. “Identification Sign” means a sign attached to or adjacent to a building entrance and which is limited to the name and address of the premises being identified.

Subd. 72. “Incidental Home Occupation” means an incidental home occupation is any occupation or profession carried on by a member of the family residing on the premises, conducted entirely within the dwelling, not including a garage or accessory building, which use is clearly incidental and secondary to the use of the residential dwelling unit and does not change the character thereof.

Subd. 73. “Incidental Sign” means a small sign, emblem, or decal placed on the exterior of a building or attached to a freestanding structure on the premises, informing the public of hours of operation.

Subd. 74. “Indirect Sign Illumination” means an illuminated sign in which the light source is emitted by a source which is internally diffused from within the sign.

Subd. 75. “Interim Use Home Occupation” means a home occupation occurring on a parcel that does not qualify as an incidental home occupation or conditional use agricultural home occupation, and satisfies the criteria of an interim use home occupation established in this Ordinance.

Subd. 76. “Interim Use Permit” means a permit issued in accordance with the provisions of this Chapter to allow a particular use on a lot within a zoning district that allows the use as an interim use. The permit is subject to the conditions imposed on it. The permit terminates on the date or the happening of the event identified in the permit, or by a change in zoning regulations.

Subd. 77. “Joint Planning Board” means a group of persons appointed by the elected bodies of the Town and the City of Sartell pursuant to a joint powers agreement and exercising authority granted hereunder and in accordance with the applicable law.

Subd. 78. “Legal Nonconforming Use” means a use lawfully in existence on the effective date of this Chapter but not conforming to the regulations for the district in which it is situated.

Subd. 79. “Livestock” means horses, cows, hogs, sheep, goats, swine, turkeys, chickens, ducks, geese, or other animals, raised or kept for agricultural purposes.

Subd. 80. “Loading Space” means a space accessible from a street, a building or on a lot, for the use of trucks while loading and unloading merchandise or materials.

Subd. 81. “Lot” means a lawfully established parcel of land, abutting on or having access to a public street, being a lot designated in a recorded plat or a lot described by metes and bounds.

Subd. 82. “Lot Area” means the area of a horizontal plane within the lot lines.

Subd. 83. “Lot Frontage” means the front of a lot shall be, for purposes of this Chapter, that boundary abutting a public right-of-way having the least width. The lot frontage shall determine the location of the building with respect to the right-of-way line.

Subd. 84. “Lot Width” means the mean horizontal distance between the side lot lines of a lot, measured within the lot boundaries.

Subd. 85. “Manufactured Home” means a detached dwelling structure used for living purposes that is transportable in one or more sections and no more than 28 feet wide, with or without a permanent foundation.

Subd. 86. “Marginal Access Street” means minor streets parallel to and adjacent to arterial streets and highways to provide access to abutting properties and protection to through traffic.

Subd. 87. “Minerals” means the non-metallic materials found naturally in the earth including, but not limited to rock, sand, gravel, clay, silt, and soil which may be covered by overburden.

Subd. 88. “Minimum Lot Size” means minimum area, width, and depth required in the Town’s zoning Chapter.

Subd. 89. “Mining” means operations involving the excavation of rock, sand, gravel, clay, silt, soil, and other like minerals for commercial purposes. “Mining operations” does not include hot mix bituminous or ready mix concrete operations which require a separate operating permit or conditional use permit consistent with this Chapter.

Subd. 90. “Minor Street” means a street that provides for direct access to abutting property and for local traffic movement, distinguished by its being completely local in character.

Subd. 91. “Natural Waterway” means a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures



that have been constructed or placed for the purpose of conducting water from one place to another in order to facilitate the continuity of the natural waterway.

Subd. 92. “Overburden” means those materials which lie between the surface of the earth and the minerals to be excavated.

Subd. 93. “Parking Space” means an area of not less than 180 square feet net, exclusive of access or maneuvering area, to be used exclusively as a temporary storage for motor vehicles.

Subd. 94. “Parks and Playgrounds” means public lands and open spaces which are designated or reserved for recreational purposes.

Subd. 95. “Pedestrian Way” means a public or private right-of-way or easement through a block or providing access within a block for the use of pedestrians and which may be used for the installation of paths or trails.

Subd. 96. “Percentage of Grade” means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each one hundred feet of horizontal distance.

Subd. 97. “Permitted Accessory Use” (See “Accessory Use”).

Subd. 98. “Permitted Use” means a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and performance standards (if any) of such district.

Subd. 99. “Planning Commission” means the entity, either the Town Board or the Joint Planning Board, that serves as the review and recommending body for a particular type of zoning request under this Chapter.

Subd. 100. “Plat” – See “Final Plat”

Subd. 101. “Plat, Preliminary” means a detailed drawing or map of a proposed subdivision meeting the requirements herein enumerated submitted to the appropriate government bodies for consideration, along with the required supporting data.

Subd. 102. “Processing” means operations involving the crushing, screening, washing, compounding or treatment of rock, sand, gravel, clay, silt, soil, and other like minerals being conducted within the Town of Le Sauk, including the production of asphalt compositions for pavement, ready mix concrete, and the recycling of previously used concrete and asphalt.

Subd. 103. “Protective Covenants” means contracts which are made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of a given area.

Subd. 104. “Public Use” means a use of land owned or operated by a municipality, school district, county or state agency or the other government entity.

Subd. 105. “Public Utility” means persons, corporations, or governments supplying gas, electric, transportation, water, sewer or land lying telephone service to the general public. For the purpose of this Chapter, commercial wireless communication service facilities shall not be considered public utility uses, and are defined separately.

Subd. 106. “Recommending Review Authority” means the body designated in this Chapter to make a recommendation to the body designated the Review Authority on a particular zoning request for property located within a particular zoning district. The Town Board is the Recommending Review Authority for recommendations made by the Town.

Subd. 107. “Rehabilitation” means to renew the land with the purpose of returning it to a self-sustaining, long-term use which is compatible with contiguous land uses in accordance with the standards set forth in this Chapter.

Subd. 108. “Reserve Strips” means narrow strips of land between lot lines and streets to control access.

Subd. 109. “Residential Facility” means any facility, public or private, other than a day care facility or a group residence facility, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for the care, food, lodging, training, education, supervision, habilitation, rehabilitation, or treatment they need, but which for any reason cannot be furnished in the person’s own home, including but not limited to, state institutions under the control of the Commissioner of Public Welfare, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, or schools for handicapped children.

Subd. 110. “Review Authority” means the body designated in this Chapter to make the final decision on a particular zoning request for property located within a particular zoning district. The Town Board is the Review Authority for final decisions made by the Town and the City Council is the Review Authority for final decisions made by the City. If this Chapter is not clear on which entity is to serve as the Review Authority on a particular zoning request or matter, the Town Board shall serve as the Review Authority.

Subd. 111. “Right-of-way” means land dedicated for public use as a street or way or for private use such as a power line or railroad.

Subd. 112. “Road” means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, place or however otherwise designated.

Subd. 113. “Road Width” means the shortest distance between delineating the boundaries of the road right-of-way.

Subd. 114. “School” means any public or non-public non-profit facility wherein children receive educational services and material provided for or recognized and approved by the State of Minnesota, Department of Education, limited to grades kindergarten through 12.

Subd. 115. “Searchlight” means an apparatus for projecting a beam or beams of light from the ground into the sky.

Subd. 116. “Semi-Public Use” means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Subd. 117. “Setback, Front” means the minimum horizontal distance from the front of the building disregarding steps and roofs to the street right-of-way. Where a lot abuts streets on opposite sides or abuts public waters, the front, for setback purposes, shall be the side of the property abutting the street right-of-way which is recognized as the location of the property for purposes of its address or 911 location. For corner lots in a platted area, the front, for setback purposes, shall be the side of the property abutting both streets.

Subd. 118. “Setback, Rear” means the minimum horizontal distance from the rear of the building disregarding steps and roofs to the property line opposite the street.

Subd. 119. “Setback, Side” means the minimum horizontal distance from the side of the building to the property or lot line, disregarding steps and roofs.

Subd. 120. “Sign” means a name, identification, description, display, illustration, or device which is fixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land and which directs attention to an object, product, place, activity, person, institution, organization, or business.

Subd. 121. “Sign Area” means the space inside a continuous line drawn around and enclosing all letters, designs, and background materials, exclusive of border, trim and structural supports. For the purpose of calculating the sign area of back-to-back signs, the stipulated maximum sign area shall refer to a single face, provided the internal radius of the sign does not exceed 45 degrees.

Subd. 122. “Sign, Flashing” means any illuminated sign on which such illumination is not kept stationary or constant in intensity or in color at times when the sign is in use.

Subd. 123. “Sign, Illuminated” means any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

Subd. 124. “Sign, Surface Area Of” means the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including structural elements outside the limits of such sign and not forming an integral part of the display.

Subd. 125. “Site Plan” means a scaled drawing which shows the uses and structures proposed for a parcel of land. It also includes information concerning the landscape features of a given parcel.

Subd. 126. “Sketch Plan” means a drawing showing the proposed general design lines of lots or suggestion for the layout of streets and lots to serve a contemplated platted area.

Subd. 127. “Snipe Sign” means any temporary sign or poster consisting of materials such as paper, plastic coated paper, cardboard that is affixed to a tree, pole, fence, permitted sign structure, light standard, or that is attached to a temporary structure or device that allows it to be placed temporarily in the ground.

Subd. 128. “Solar Energy” means the radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Subd. 129. “Solar Energy System” means a device or structural design feature intended to provide for collection, storage, and distribution of solar energy for heating or cooling, electricity generating, or water heating.

Subd. 130. “Solar Energy System – Residential” means a solar energy system established for the primary purpose of capturing energy to be used upon the property in which it is collected.

Subd. 131. “Special Event” means an event or special promotional activity that has a limited duration that involves the use of temporary signs or attention getting devices.

Subd. 132. “Stand, Roadside” means a structure used only for the display and sale of products with no space for customers within the structure.

Subd. 133. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story and a cellar shall not be counted as a story.

Subd. 134. “Street” – see “Road.”

Subd. 135. “Street Width” – see “Road Width.”

Subd. 136. “Structural Alteration” means any change in a building or structure affecting its supporting members such as bearing walls or partitions, beams, girders, etc. Roofs or exterior walls are included. Incidental repairs shall not be considered as alterations.

Subd. 137. “Structure” means that which is built or constructed, an edifice or building or appurtenance thereto, or any piece of work artificially built up, or composed of parts joined together in some definable manner, except aerial or underground utility lines such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting appurtenances.

Subd. 138. “Subdivider” means any individual, firm, corporation, trust or other legal entity having proprietary interest in land to be subdivided and proposing the subdivision of land.

Subd. 139. “Subdivision” means the division of a parcel of land into two or more lots, outlots or parcels for the purpose of transfer of ownership or building development, including the location and dedication of necessary streets to serve such lots.

Subd. 140. “Subdivision Agreement” means a restrictive covenant which restricts development on an equivalent land area as required by the Stearns County subdivision Chapter.

Subd. 141. “Subdivision, Major” means all Subdivisions not classified as minor Subdivisions, including but not limited to Subdivisions of four or more lots, or any size Subdivision requiring any new street or extension of local government facilities, or the creation of any public improvements.

Subd. 142. “Subdivision, Minor” means any Subdivision containing not more than three lots fronting on an existing street, not involving any new public street or road, or the extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of an adopted plan, official map, zoning Chapter, or these Subdivision regulations.

Subd. 143. “Swinging Sign” means a sign which is made of permanent exterior material which is designed to swing in the air by hardware or some other form of attachment to an immovable object.

Subd. 144. “Tangent” means a straight line projected from the ends of a curve, which is perpendicular to a line on the curve drawn from the radii point to the end of the curve.

Subd. 145. “Temporary Sign” means a sign not constructed or intended for long-term use such as a special event or for signage for a business that has not yet obtained permanent signage.

Subd. 146. “Tillable Land” means any land capable of producing small grains, row crops, or hay with normal tillage practices. Wooded land is excluded.

Subd. 147. “Topsoil” means that portion of the overburden which lies closest to the surface of the earth and which supports the growth of vegetation.

Subd. 148. “Tower” means any ground or roof-mounted pole, spire, structure or a combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masks, intended primarily for the purpose of mounting an antenna, meteorologic device, or similar apparatus above grade.

- (a) “Amateur Radio Tower” means a tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate antennas of multiple users as required by this Chapter.
- (b) “Accessory Tower Utility Building” means all utility buildings and structures accessory to a tower.
- (c) “Building Mounted Antenna” means a wireless communications antenna mounted on or attached to the roof or wall of an existing building.
- (d) “Commercial Tower” means a tower designed or used for commercial wireless telecommunications services, public radio transmission or commercial television transmission.
- (e) “Exempted Dish” means a satellite or microwave dish that is two meters or less in diameter and used for reception of signals exclusively for the occupants of the property on which it is located.
- (f) “Multi User Tower” means a tower to which is attached the antennas of more than one commercial wireless telecommunications service provider or governmental entity.
- (g) “Residential Television Tower” means a tower used exclusively for the non-commercial reception of television signals, which is located on the same property as the television(s), and does not exceed 40 feet in height.
- (h) “Single User Tower” means a tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate antennas of multiple users as required by this Chapter.

Subd. 149. “Town” means Le Sauk Township, Stearns County, Minnesota.

Subd. 150. “Town Board” means the board of supervisors of Le Sauk Township, Stearns County, Minnesota.

Subd. 151. “Tracing” means a plat or map drawn on transparent paper or cloth which can be reproduced.

Subd. 152. “Use” means the purpose for which land, or buildings thereon, are designed, arranged, or intended to be occupied or used, or for which they are occupied or maintained.

Subd. 153. “Utility Building” means a detached non-permanent building not exceeding 220 square feet in size, having a non-permanent foundation and not exceeding 15 feet in height, as measured from grade to the highest point on the building.

Subd. 154. “Variance” means a modification of the literal provisions of this Chapter granted when strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration. Variances shall be granted only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Chapter. “Practical difficulties” as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning Chapter; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in Minnesota Statute section 216C.06, subdivision 14 when in harmony with this Chapter. The Board of Appeals and Adjustment may not permit as a variance a use that is not allowed under this Chapter for property in the zone where affected person’s land is located. The Board of Appeals and Adjustments may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Subd. 155. “Vertical Curve” means the surface curvature on a street center-line located between lines of a different percentage of grade.

Subd. 156. “Vicinity Map” means a small map drawn to a comparatively small scale which definitely shows the area proposed to be platted and the vicinity surrounding it.

Subd. 157. “Wetland” has the meaning given in Minnesota Rules, part 8420.0110, subpart 52.

Subd. 158. “Window Sign” means a sign attached to, placed upon, or painted on the interior of a window that is visible from the exterior of the building, including signs that are placed on the backs of shelving units or similar structures, or interior walls where the sign is located less than seven feet from the window’s surface.

Subd. 159. “Yard” means an open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this Chapter.

Subd. 160. “Yard, Front” means a yard extending along the full width of the front lot line between side lot lines and from the abutting front street right-of-way line to the front building line in depth.

Subd. 161. “Yard, Rear” means that portion of the yard on the same lot with the principal building, located between the rear building line and the rear lot line and extending the full width of the lot.

Subd. 162. “Yard, Side” means a yard extending along a side lot line between the front and the rear yards.

Subd. 163. “Zoning District “or “District” means a geographic area within the Town identified on the zoning map as designated for particular types of uses and in which certain uses are allowed as permitted, conditional, or interim.

Subd. 164. “Zoning Map” means a map dividing the land within the Town into the zoning districts established in this Chapter. The zoning map adopted for the Town is called the Le Sauk Township Zoning Map.



## **Section 510 – Zoning Districts and Zoning Map**

### **510.01. Zoning Districts.**

Subdivision 1. Primary Zoning Districts. For the purpose of this Chapter, the Town is hereby divided into the following districts:

- (a) Town Agricultural District (A-20);
- (b) Urban Service District (U-1);
- (c) Town Residential District (R-1); and
- (d) Legacy Commercial District (C-1).

Subd. 2. Overlay Zoning Districts. For this purposes of this Chapter, the Town has the following overlay districts, in addition to those areas that are subject to the County's floodplain regulations:

- (a) Residential Overlay District (RO); and
- (b) Shoreland Overlay District (SO).

Subd. 3. Entire Town. All land within the jurisdictional boundaries of the Town is located within one of the established primary zoning districts as shown on the Town's zoning map.

### **510.02. District Regulations.**

Subdivision 1. Generally. Land within a particular primary zoning district shall be subject to: the general standards, regulations, and restrictions contained within this Chapter; any specific standards, regulations, and restrictions established in this Chapter for the particular district; any performance standards established for the particular use; the standards, regulations, and restrictions of any applicable overlay district; and any applicable standards, regulations, and restrictions imposed by any other applicable federal, state, and local laws, rules, regulations, and ordinances.

Subd. 2. Overlay District Regulations. Land located within an overlay district is subject to both the regulations established herein for the primary zoning district in which it is located as well as the regulations applicable within the overlay district.

510.03. **Official Zoning Map.** The boundaries of the primary zoning districts established by this Chapter are delineated on a map known as the Le Sauk Township Zoning Map, which is hereby adopted and incorporated herein. The Town Clerk shall be responsible for maintaining the official copy of the Zoning Map and for making it available for public inspection upon

reasonable request. It shall be the responsibility of the Town Clerk to cause these maps to be amended as may be needed in accordance with law.

510.04. **Recording this Chapter.** The Town Clerk shall record this Chapter, and any subsequent amendments made hereto, in the office of the Stearns County Recorder after adoption.

510.05. **Changes on Official Zoning Map.** No changes of any nature shall be made on the official Zoning Map except in conformity with the procedures set forth in this Chapter.

510.06. **Interpretation of District Boundaries.** Interpretation of the boundaries of the Zoning Map shall be the responsibility of the Town Board and such interpretation shall be done in accordance with this Subsection.

Subdivision. 1. **District Boundaries.** The boundaries between zoning districts are, unless otherwise indicated, either the centerline of streets or alleys. These boundaries may also follow lot lines or other property lines as indicated on the maps and the center of streams.

Subd. 2. **Areas Under Water.** All areas within the corporate limits of the Town that are under water shall be subject to all of the regulations of the zoning district which immediately adjoins the water area. (This subdivision is not to be confused with areas subject to flooding as described elsewhere in this Chapter).

Subd. 3. **Public or Semi-Public Property.** Any areas shown on the Zoning Map as park, playground, school, cemetery, water, etc. shall be subject to the regulations of the zoning district in which they are located.

Subd. 4. **Protection of Lakeshore and Streams.** The construction of buildings other than single family dwellings and building accessory thereto shall not be permitted within 100 feet of any lakeshore, creek or waterway. Should any waterway, stream or lakeshore change or be relocated in the future in such a way that its shoreline borders upon or enters into any district other than U-1 or R-1, this Subsection shall apply and shall be enforced regardless of zoned classification shown for said property. Where Stearns County ordinances are more restrictive they shall prevail.

## **Section 515 – Uses Allowed Within the Districts**

515.01. **Identified Uses.** Except as otherwise provided in this Section 515, only those uses that are expressly identified by this Chapter as being allowed within a district may occur within that district, and then only upon the issuance of all required permits and compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances. If an owner proposes to undertake a use that is not expressly allowed in the particular district, the owner may seek a determination from the Review Authority under the following Subsection that the proposed use is substantially similar to an allowed use, apply for an amendment to the text of the Chapter to add the use to those allowed within the zoning district, or seek a rezoning of the property to a district in which the use is allowed.

515.02. **Substantially Similar Uses.** Only those uses expressly allowed by this Chapter for a particular zoning district may occur in that district. If an owner proposes to undertake a use the owner believes is substantially similar to a use expressly allowed by this Chapter in the same zoning district, that person may submit an application to the Review Authority to seek a determination that the use is allowed in the particular district as being substantially similar to the expressly allowed use. Such application shall be on the form supplied by the Review Authority and it must fully explain the proposed use and how it is similar to the allowed use. The Review Authority shall act on complete applications to determine whether the proposed use is substantially similar to an allowed use in the same district. If the Review Authority does find the proposed use is substantially similar, it shall also determine whether the use shall be deemed a permitted, interim, conditional, or accessory use for the purpose of this Chapter. The owner must then apply for any required permits based on the Review Authority's classification of the use and any other applicable regulations. The Review Authority shall maintain a record of all uses it expressly finds to be substantially similar and will make a good faith effort to include those uses in the Ordinance the next time it is amended. If the Review Authority finds the proposed use is not substantially similar to an allowed use, the owner may submit a separate application to seek an amendment to the text of this Chapter to expressly allow the use within a district. The Town Board shall serve as the Review Authority to consider and act on a requested determination if the JPB or the City are not clearly the Review Authority.

515.03. **Uses Allowed by Statute.** The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Chapter, this Chapter shall be interpreted as allowing those uses the legislature expressly requires the Town to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statute, section 462.357, subdivision 7 requires a licensed day care facility serving 12 or fewer persons to be considered a permitted single family residential use of property. As such, this Chapter shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Chapter. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the

submission of an application and receipt of a conditional use permit from the Town. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Chapter and all other applicable laws.

## **Section 520 – Town Agricultural District (A-20)**

520.01 **Town Agricultural District (A-20).** The purpose of the Town Agricultural District (A-20) is to preserve, promote, maintain, and enhance the use of the land in the district primarily for agricultural purposes, while allowing some residential development. This Town Agricultural District (A-20) is beyond the City's planned utility expansion area and is managed by the Town. In the Town Agricultural District (A-20) no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

520.02. **Permitted Uses.** The following uses are allowed within the Town Agricultural District (A-20) as a matter of right, but a building permit may be required.

- (a) All farming activities including the raising of livestock.
- (b) Single family detached dwelling unit, limited to one per operating farm and being at least 24 feet wide and 30 feet long, and placed on a permanent foundation according to the state building code.
- (c) Feedlots containing less than 200 animal units.
- (d) Roadside stands for the sale of agricultural produce raised on the premises.
- (e) Family day care facility.
- (f) Incidental home occupations.
- (g) Public or Semi-Public Uses.
- (h) Places of Worship.
- (i) Group residential facilities designated a permitted use under Minnesota Statutes, section 462.357, subdivision 7 or other applicable laws.

520.03. **Conditional Uses.** The following uses are allowed within the Town Agricultural District (A-20) with the issuance of a conditional use permit.

- (a) Manufactured homes as a temporary dwelling for a family member actively engaged in farming on the premises.
- (b) Farming activities which derive the major source of revenue from the raising of fur bearing animals for the purpose of selling the fur of said animals.
- (c) Farming activities which derive the major source of revenue from the raising and selling of livestock or livestock products and have a near complete concentration in one aspect of livestock raising, with any other use accessory to the principal use or the use of force feeding or confinement raising of livestock.

- (d) Feedlots containing from 200 to 400 animal units.
- (e) Privately operated game farms.
- (f) Essential service structures.
- (g) Golf courses, tennis courts (other than for private use by the residents), and country clubs.
- (h) Cemeteries.
- (i) Commercial dog kennels.
- (j) Group residential facility not qualifying as a permitted use.
- (k) Uses determined by the Review Authority to be of similar nature to the listed conditional uses above and found not to be detrimental to the general health, safety and welfare of the Town.
- (l) Conditional use agricultural home occupation.
- (m) Greenhouses.
- (n) Fences more than six feet in height.
- (o) Any number of accessory buildings with a combined size exceeding 5,000 square feet.
- (p) Utility building, accessory building or private garage on a lot on which no principal building is located.
- (q) Uses determined to be similar in nature to the listed conditional uses above and found not to be detrimental to the general health, safety and welfare of the Town.

520.04. **Interim Uses.** The following uses are allowed within the Town Agricultural District (A-20) with the issuance of an interim use permit.

- (a) Second single family dwelling.
- (b) Interim use home occupations.

520.05 **Permitted Accessory Uses.** The following accessory uses are allowed within the Town Agricultural District (A-20) as a matter of right, but a building permit may be required.

- (a) All buildings and structures necessary and incidental to agricultural production.

- (b) Utility, accessory, or private garage up to 5,000 square feet. The size of a private garage shall not exceed the square footage of the outside dimensions of the principal residential dwelling.
- (c) Signs as permitted elsewhere in this Chapter.
- (d) Private swimming pool, spa, or hot tub.
- (e) Tennis courts.
- (f) One utility building up to 220 square feet.
- (g) Residential solar energy system.
- (h) Post frame or engineered wood-frame building system.

## **Section 525 – Urban Service District (U-1)**

525.01. **Urban Service District (U-1)**. The purpose of the Urban Service District (U-1) is to maintain agricultural uses and existing residential uses until the land is annexed into the City and developed under the City's zoning and subdivision regulations. The Urban Service District (U-1) includes those portions of the Town the City has identified as the logical areas into which the City will expand and serve as part of its utility expansion area. In order to avoid interfering with the orderly expansion of City utilities and growth of the City as contemplated in the orderly annexation agreement and Minnesota Statutes, section 414.01, subdivision 1a, the subdivision of land within this area below the 40 acre minimum is not allowed unless the property is annexed into the City. In the Urban Service District (U-1), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

525.02. **Permitted Uses**. The following uses are allowed within the Urban Service District (U-1) as a matter of right, but a building permit may be required.

- (a) All farming activities including the raising of livestock.
- (b) Single family detached dwelling unit, limited to one per 40 acres and being at least 24 feet wide and 30 feet long, and placed on a permanent foundation according to the state building code.
- (c) Feedlots containing fewer than 10 animal units subject to applicable local, state and federal regulations, and provided the feedlot is located no closer than 300 feet from a neighboring residential structure.
- (d) Incidental home occupations.
- (e) Public or Semi-Public Uses.
- (f) Group residential facilities designated a permitted use under Minnesota Statutes, section 462.357, subdivision 7 or other applicable laws.

525.03. **Conditional Uses**. The following uses are allowed within the Urban Service District (U-1) with the issuance of a conditional use permit.

- (a) Manufactured homes as a second, temporary dwelling for a family member actively engaged in farming on the premises.
- (b) Farming activities which derive the major source of revenue from the raising and selling of livestock or livestock products and have a near complete concentration in one aspect of livestock raising, with any other use accessory to the principal use or the use of force feeding or confinement raising of livestock.
- (c) Feedlots containing from 10 to 200 animal units.



- (d) Essential service structures.
- (e) Golf courses, tennis courts (other than for private use by the residents), and country clubs.
- (f) Cemeteries.
- (g) Commercial dog kennels.
- (h) Group residential facility not qualifying as a permitted use.
- (i) Conditional use agricultural home occupation.
- (j) Greenhouses.
- (k) Places of Worship.
- (l) Fences more than six feet in height.
- (m) Any number of accessory buildings with a combined size exceeding 5,000 square feet.
- (n) Utility building, accessory building or private garage on a lot on which no principal building is located.
- (o) Family daycare.
- (p) Uses determined by the Review Authority to be similar in nature to the listed conditional uses above and found not to be detrimental to the general health, safety and welfare of the Town.

525.04. **Interim Use Permit Uses.** The following uses are allowed within the Urban Service District (U-1) with the issuance of an interim use permit.

- (a) Interim use home occupations.

525.05. **Permitted Accessory Uses.** The following accessory uses are allowed within the Urban Service District (U-1) as a matter of right, but a building permit may be required.

- (a) One private garage and parking space. The size of a private garage shall not exceed the square footage of the outside dimensions of the principal residential dwelling.
- (b) Signs as permitted elsewhere in this Chapter.
- (c) Private swimming pool, spa, or hot tub.

- (d) Tennis courts.
- (e) One utility building up to 220 square feet.
- (f) Residential solar energy systems.
- (g) Accessory structure up to 5,000 square feet.
- (h) Post frame or engineered wood-frame building system.
- (i) Roadside stands for the sale of agricultural produce raised on the premises.

525.06. **Subdivisions**. No subdivision of property within the Urban Service District (U-1) is allowed if it will result in any new lot or parcel that contains less than 40 acres. Lot line adjustments and lot combinations are allowed in accordance with this Chapter.

### **Section 530 – Town Residential District (R-1)**

530.01. **Town Residential District (R-1)**. The purpose of the Town Residential District (R-1) is to recognize the smaller-lot residential development that has already occurred within certain areas of the Town. These areas are substantially developed with single-family homes and there is a minimum amount of property remaining to be developed. In the Town Residential District (R-1), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

530.02. **Permitted Uses**. The following uses are allowed within the Town Residential District (R-1) as a matter of right, but a building permit may be required.

- (a) Single family detached dwellings being at least 24' wide and 30' long and placed on a permanent foundation according to the State Building Code.
- (b) Incidental home occupations.
- (c) Day care facility.
- (d) Public and semi-public uses.
- (e) Solar residential system.
- (f) Group residential facilities designated a permitted use under Minnesota Statutes, section 462.357, subdivision 7 or other applicable laws.

530.03. **Conditional Uses**. The following uses are allowed within the Town Residential District (R-1) with the issuance of a conditional use permit.

- (a) Essential service structures.
- (b) Fences more than six feet in height.
- (c) Group residence facility not qualifying as a permitted use.
- (d) Post frame, pole type, or engineered wood-frame building system, but only if the area of the subject parcel equals or exceeds two acres.

530.04. **Interim Use Permit Uses**. The following uses are allowed within the Town Residential District (R-1) with the issuance of an interim use permit.

- (a) Interim use home occupations.

530.05. **Permitted Accessory Uses**. The following accessory uses are allowed within the Town Residential District (R-1) as a matter of right, but a building permit may be required.

- (a) One private garage and parking spaces. The size of a private garage shall not exceed the square footage of the outside dimension of the principal residential structure.
- (b) Signs as permitted elsewhere in this Chapter.
- (c) One accessory building not to exceed 3,600 square feet. All buildings must meet the lot coverage requirements for the Town Residential District.
- (d) Tennis courts.
- (e) One utility building up to 220 square feet.
- (f) Private swimming pool, spa, or hot tub.

530.06. **Subdivisions**. Except for a lot line adjustment or lot combination, no further subdivision of any lot or parcel in the R-1 District shall be permitted, except upon annexation into the City and expectation of connection to municipal water and sewer services if available as provided in Subsection 560.16, subdivision 2.

## **Section 535 – Legacy Commercial District (C-1)**

535.01. **Legacy Commercial District (C-1)**. The purpose of the Legacy Commercial District (C-1) is to allow the continuation and expansion of existing commercial uses, while prohibiting the establishment of new commercial uses. This District recognizes the long-standing business uses existing within the Legacy Commercial District (C-1) and allows them to continue as nonconforming uses with the ability to expand as permitted under Minnesota Statutes, section 462.357, subdivision 1e(b). In the Legacy Commercial District (C-1), no land or buildings shall be used in whole or part except for the following allowed uses.

535.02. **Existing Uses**. The business and commercial uses lawfully existing within the Legacy Commercial District (C-1) as of April 1, 2020 are allowed to continue as lawful nonconforming uses. These existing nonconforming uses are allowed to expand with the issuance of a conditional use permit. Conditions may be placed on any conditional use permit issued to allow an expansion to avoid or mitigate any new or increased impacts the expanded use may have and to prevent or abate any existing nuisances or to protect public health, welfare, or safety.

535.03. **New Uses**. The establishment of, or conversion to, a new principal commercial use is not allowed within the Legacy Commercial District (C-1).

535.04. **Accessory Uses**. Accessory uses customarily (historically) incidental to the existing nonconforming uses, as reasonably determined by the Review Authority, are allowed in the Legacy Commercial District (C-1), provided a conditional use permit is obtained for the accessory use. Only those accessory uses that are in furtherance of the existing principal use of the property, and which do not constitute a change in the use, are allowed.

## **Section 540 – Residential Overlay District (RO)**

540.01. **Residential Overlay District (RO)**. The purpose of the Residential Overlay District (RO) is to allow owners within the Town Agricultural District (A-20) to seek rezoning of their property to allow residential development on smaller lots than would otherwise be allowed in the Town Agricultural District (A-20). The boundaries of the Residential Overlay District (RO) are the same as the A-20 District, but the Residential Overlay District (RO) does not impose any additional regulations or allow any more or different uses than are allowed in the Town Agricultural District (A-20). Instead, the Residential Overlay District (RO) allows an owner to seek the rezoning of their property to one of the following RO Subdistricts in order to reduce the minimum area requirement applicable to the property. This option to seek rezoning to one of the following RO subdistricts is only available for properties within the Town Agricultural District (A-20).

540.02. **Residential Overlay Subdistricts**. An owner within the Town Agricultural District (A-20) may seek to have their property rezoned to one of the following RO Subdistricts.

Subdivision 1. **RO-10 Subdistrict**. The RO-10 Subdistrict reduces the minimum lot size for residential development to 10 acres. Properties rezoned to the RO-10 Subdistrict, shall meet the dimensional and setback requirements in Section 545.01 applicable to the Town Agricultural District (A-20), except for the minimum lot area requirement.

Subd. 2. **RO-5 Subdistrict**. The RO-5 Subdistrict reduces the minimum lot area for residential development to five acres. Properties rezoned to the RO-5 Subdistrict, shall meet the dimensional and setback requirements in Section 545.03 applicable to the Town Residential District (R-1), except for the minimum lot area requirement.

Subd. 3. **RO-1 Subdistrict**. The RO-1 Subdistrict reduces the minimum lot area for residential development to 30,000 square feet. Properties rezoned to the RO-1 Subdistrict, shall meet the dimensional and setback requirements in Section 545.03 applicable to the Town Residential District (R-1), except for the minimum lot area requirement.

540.03. **Rezoning Considerations**. The Town Board shall consider the following factors when considering a rezoning request within the Town Agricultural District (A-20) to one of the RO Subdistricts in addition to any other applicable factors:

- (a) Whether there is adequate area on the property for the resulting building sites and to comply with the applicable septic system and well standards;
- (b) Would the rezoning, and subsequent development on the smaller lots, result in unreasonable negative impacts to the surrounding properties; and
- (c) Is the public infrastructure sufficient to accommodate the proposed development.

540.04. **Allowed Uses**. The uses and accessory uses allowed within the Residential Overlay Subdistrict upon rezoning are as provided in this Subsection. The review procedures for zoning

requests made within any Residential Overlay Subdistrict shall be the same as provided for the Town Agricultural District (A-20) in Subsection 590.02.

Subdivision 1. RO-10 Subdistrict. The uses and accessory uses allowed in the RO-10 Subdistrict are the same as those allowed in the Town Agricultural District (A-20), except that feedlots shall not exceed 10 animal units.

Subd. 2. RO-5 Subdistrict. The uses and accessory uses allowed in the RO-10 Subdistrict are the same as those allowed in the Town Residential District (R-1).

Subd. 3. RO-1 Subdistrict. The uses and accessory uses allowed in the RO-1 Subdistrict are the same as those allowed in the Town Residential District (R-1).

## **Section 545 – Area, Dimensional, and Setback Requirements**

545.01. **Town Agriculture District (A-20).** The following requirements shall apply to structures within the Town Agriculture District (A-20):

- (a) Maximum height of any structure shall be two and one-half stories or 35 feet whichever is greater. This shall not apply to silos, grain storage or drying equipment, and other farm structures.
- (b) Minimum lot area shall be 20 acres, unless the property is rezoned into one of the Rural Overlay Subdistricts provided for in Subsection 540.02. The minimum lot areas in the Rural Overlay Subdistricts shall be as follows:
  - (1) The minimum lot area in the RO-10 Subdistrict shall be 10 acres.
  - (2) The minimum lot area in the RO-5 Subdistrict shall be 5 acres.
  - (3) The minimum lot area in the RO-1 Subdistrict shall be 30,000 square feet.
- (c) Minimum lot width shall be 250 feet at the building setback line.
- (d) Front yard setbacks shall not be less than 50 feet from the right-of-way.
- (e) Side yard setbacks shall not be less than 25 feet.
- (f) Rear yard setbacks in all cases shall not be less than 50 feet.

545.02. **Urban Service District (U-1).** The following requirements shall apply to structures within the Urban Service District:

- (a) Maximum height of any structure shall be two and one-half stories or 35 feet whichever is greater.
- (b) Minimum lot area shall be 40 acres.
- (c) Minimum lot width shall be 150 feet at the building setback line.
- (d) Front yard setback shall be not less than 50 feet.
- (e) Side yard setbacks shall not be less than 20 feet.
- (f) Rear yard setbacks shall not be less than 30 feet.

545.03. **Town Residential District (R-1).** The following requirements shall apply to structures within the Town Residential District (R-1):



- (a) Maximum height of any structure shall be two and one-half stories or 35 feet whichever is greater.
- (b) Minimum lot area shall be 30,000 square feet.
- (c) Minimum lot width shall be 100 feet at the building setback line.
- (d) Front yard setback shall be 30 feet.
- (e) Side yard setbacks shall not be less than 10 feet. Corner lots shall be 15 feet.
- (f) Rear yard setbacks shall not be less than 15 feet.
- (g) Impervious surface shall not exceed 40% of a lot or plot of land.
- (h) Total building coverage shall not exceed 30% of a lot or plot of land.

545.04. **Legacy Commercial District (C-1)**. The following requirements shall apply to structures within the Legacy Commercial District (C-1):

- (a) Maximum height of any structure shall be two and one-half stories or 35 feet whichever is greater.
- (b) Each building shall have a front yard setback of not less than 40 feet.
- (c) Each building shall have a side yard setback of not less than 15 feet.
- (d) Each building shall have a rear yard setback of not less than 20 feet.
- (e) Where any part of a commercial area is adjacent to a residential zone the minimum set back shall be 100 feet.
- (f) The application for a building permit in the Legacy Commercial District (C-1) shall be accompanied by a complete site plan showing the proposed building or buildings and also the proposed use of the balance of the property. The plan shall show waste disposal, water supply, drainage, ingress and egress, landscaping, screening and other pertinent data. Distances to surrounding buildings must also be shown on the site plan. No building permit shall be issued for any construction in the Legacy Commercial District (C-1) until authorized by the Review Authority.
- (g) Where a commercial development abuts upon an A-20, U-1, or R-1 District, or is separated from such District only by an alley, there shall be a protective strip of not less than 25 feet in width established as a buffer zone and within the setback requirement. This buffer zone shall contain no structures, shall not be used for parking, off-street loading, or storage and shall be landscaped. The landscape

treatment shall contain a compact evergreen hedge or fence but such hedge or fence shall not extend within 15 feet of a street right-of-way. The planting or fence design must be approved by the Review Authority as to whether the planting or fence design is in harmony with a residential neighborhood and provides sufficient screening of the commercial area. The hedge or fence shall be not less than four feet in height.

545.05. **Building Line Established by Development.** In platted areas, where buildings have been constructed prior to the adoption of this Chapter and where those buildings have front yard setbacks different from those described in this Chapter, the setback line shall be assumed to have been established and new construction shall conform to the line-of-sight. The location of the building line shall be established as part of processing an application in accordance with the applicable zoning request review procedure.

545.06. **Setback Exemptions.** The following shall not be considered as encroachments on setback requirements:

- (a) Chimneys, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, and the like provided they do not project more than two feet;
- (b) Fences which do not exceed 3-1/2 feet in height; and
- (c) Fences to contain farm livestock in agricultural districts.

## **Section 560 – General Performance Standards**

560.01. **Off-Street Parking.** Off-street parking shall comply with the following.

- (a) A parking space shall be at least nine feet wide by 20 feet long. In considering parking lots, a standard of 300 square feet per parking space shall be used to compute total requirements including maneuvering areas.
- (b) Off-street parking will not be permitted in any front yard or side yard in residential districts where such yards border on a street.
- (c) Any off-street parking area containing four or more parking spaces must be screened from any adjacent residential area by proper plantings.
- (d) Spaces for residential parking shall be on the same lot as the principal building.
- (e) Off-street parking in residential districts shall be used only for the parking of vehicles. No commercial vehicles will be permitted.
- (f) All off-street parking areas shall be provided with a dustless surface, adequate drainage and if lighting is used, it shall be directed away from adjacent residential property.
- (g) There shall be no off-street parking within 15 feet of any street right-of-way.
- (h) The application for any building permit shall be accompanied by a site plan which, in addition to other information, shall show the location of the off-street parking area provided for such building.
- (i) No entrance to or exit from the parking area shall be more than 24 feet in width and under no circumstances will off-street parking areas be designed so that vehicles must back into the street or public way.
- (j) No public or private parking lot in C-1 for more than five motor vehicles shall have an entrance or exit within 30 feet of a residential district boundary line.

560.02. **Required Parking Area.** The following parking area shall be required:

- (a) Dwellings, two parking spaces per living unit in A-20, U-1, and R-1 zones.
- (b) Multiple dwellings, one and one half space for each living unit.
- (c) Places of worship, one space for every three seats or one space for every 50 square feet of assembly space, whichever requires more spaces.
- (d) Retail business: one space for every 100 square feet of sales area.

- (e) Other business: one space for every 150 square feet of floor area.
- (f) All commercial uses two spaces for every three employees or one space for each 1,000 square feet of floor area, whichever is greater.
- (g) For any and all uses of structures not specifically provided for in the foregoing, such parking space as the Town Board shall determine to be necessary, considering all the parking generating factors involved.
- (h) In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Section. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use except that the Town Board may consider the joint use of a parking area (other than residential) where it is known that because of a time element, the parking facilities will not be needed by more than one of the users at one time.

560.03. **Off-Street Loading.**

- (a) On the same premises with every building devoted to retail trade, wholesale or manufacturing or other buildings where large amounts of goods are received or shipped, erected in any district after the effective date of this Chapter, loading and unloading space shall be provided as follows:
  - (1) In the Legacy Commercial District (C-1) two off-street loading and unloading spaces shall be provided for each store unit having a gross floor area of 10,000 square feet. One additional space shall be provided for each additional 15,000 square feet of floor space.

560.04. **Accessory Buildings, Residential District.** Accessory buildings in the Urban Service District (U-1), Town Residential District (R-1), and the Residential Overlay District (RO) shall comply with all of the following.

- (a) No accessory building, other than a garage, shall be located within any yard other than rear yard in a residential district.
- (b) Accessory buildings in a residential district shall not exceed 25 feet in height, such buildings shall conform with all the setback regulations as set forth in this Chapter except that garages, detached and constructed in rear yards may have a side yard setback of not less than 10 feet.
- (c) Accessory buildings in a residential district shall be constructed with materials similar to the primary structure.

- (d) No accessory structure shall be allowed in the residential district without a primary structure.

560.05. **Fences.** Fences shall comply with all of the following.

- (a) Fences in residential or agricultural districts shall be limited to six feet in height except by conditional use permit.
- (b) Fences between three and one half feet and six feet in height shall not be less than five feet from the property line, unless a common fence is erected by two property owners in which case the property owners may erect the fence on the property line.

560.06. **Obstruction of View.** No wall, fence, or other structure shall be erected or altered, and no hedge, tree, shrub or other growth shall be maintained, which may cause danger to traffic on a street or public way by obscuring the view of those traveling on a public right-of-way.

560.07. **Removal of Topsoil.** No person shall strip, excavate or otherwise remove topsoil for sale, or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on said premises and excavation or grading incidental thereto, except as provided elsewhere in this Chapter.

560.08. **Building Relocation.** To maintain a high standard of residential development, and to protect such areas from detrimental effects through insuring that both new and relocated buildings from within the Town's limits or from other areas shall comply with the following.

- (a) Each relocation of a building shall require a conditional use permit from the Town Board and all such buildings shall conform with and be situated in a properly zoned area in accordance with all of the provisions of this Chapter and the building code.
- (b) The application for a permit to move a building may be granted or denied by the Town Board.

560.09. **Home Occupations.**

Subdivision 1. **Incidental Home Occupations.** Incidental home occupations shall comply with the requirements and limitations of this Subsection.

- (a) The use must be conducted solely by those residing on the premises, entirely within the dwelling.
- (b) The incidental home occupation shall not include the employment of any other person not residing on the premises.

- (c) Incidental home occupations shall not include any over-the-counter retail businesses, manufacturing businesses, or repair shops that require the exterior parking or storage of automobiles or machinery.
- (d) Incidental home occupations shall not require external major alterations or involve construction features not customarily found in or which are normally accessory to dwellings, except as are necessary for safety purposes.
- (e) Exterior storage of commodities, stores, equipment, or materials associated with the home occupation is prohibited.
- (f) The in-person sale of products associated with the home occupation from the premises is prohibited.
- (g) The area devoted to the incidental home occupation shall not exceed 25% of the floor area of the dwelling.

Subd. 2. Interim Use Home Occupation. An interim use permit is required for any home occupation not falling into the definition of “incidental home occupation” or a “conditional use agricultural home occupation.” Interim use home occupations shall comply with the requirements and limitations of this Subsection.

- (a) May employ persons not residing on the parcel, provided all parking associated with all employees and customers can lawfully be accommodated on the parcel.
- (b) No external operation of equipment is permitted.
- (c) Shall not utilize more the 10% of the lot area.
- (d) No exterior storage of commodities, stores, equipment, or materials is permitted.
- (e) May have limited outdoor parking of vehicles associated with the occupation, provided they are maintained in an immediately operable condition.
- (f) One identification sign for the home occupation use is allowed, but shall not exceed 4 square feet in area. All signs for Home Occupation shall be set back a minimum distance of not less than 15 feet from the curb line. If lighted, no home occupation sign shall be illuminated between the hours of 10:00 p.m. and 7:00 a.m.
- (g) Auto-salvage, material scrapping, and similar uses are prohibited.

Subd. 3. Conditional Use Agricultural Home Occupation. A conditional use agricultural home occupation requires the issuance of a conditional use permit, which shall not be issued unless the proposed use satisfies all of the criteria in this Subsection.

- (a) The parcel of agricultural property is 20 acres or greater in size.
- (b) The business, occupation or profession does not involve the retail sale of a product on site, with the exception of the sale of agricultural products and activities incident to the sale of agricultural products.
- (c) The structure occupied by the business, occupation or profession, and all activities incidental thereto, shall be set back 200 feet from all property lines, and 300 feet from any property zoned for residential use or from any building located on adjacent property used primarily as a dwelling.
- (d) No goods, inventory, raw materials, or other personal property associated with the business, occupation or profession may be maintained or stored outside of a building or structure, unless it is properly screened by fencing or landscaping so it is not visible from adjacent property.
- (e) The business, occupation or profession will not result in offensive noise, odor or smoke which is detectable by human senses from adjacent property.
- (f) No waste or byproducts generated by the business, occupation or profession may be disposed or stored on site, except for temporary storage not to exceed 20 days.
- (g) The business, occupation or profession shall not be of a type so as to be detrimental to the general health, safety or welfare of the Town, or result in a significant decrease in the value of adjacent properties.
- (h) Any building or structure used for purposes of the business, occupation or profession shall not exceed 5,000 square feet in size.

560.10. **Site Plan Review.** Site plans shall be submitted and processed in accordance with the following.

Subdivision 1. **Required.** All plans for the improvement, development, operation or expanded use of any property requiring a site plan approval shall be submitted and processed in accordance with the review procedures chart in Section 590.02 and the procedures associated with the designated type of review. Site plan reviews do not require a public hearing. The applicant is required to reimburse the costs of such review.

Subd. 2. **Required Information.** Prior to issuance of a building permit for construction in any district of the Town, each applicant for a permit shall, as part of the permit application, submit the following information for consideration by the Review Authority or its designee.

- (a) A site plan of the parcel on which the construction or remodeling shall be located showing the location of any proposed or existing buildings, the location of all wells and water distribution pipes, the location, size, and design of all sewage disposal systems, and building setbacks from the property line.

- (b) A copy of the plans and specification for construction or remodeling of structures and for a proposed sewage disposal system.
- (c) A certificate of survey for the boundaries of the parcel where said parcel is unplatted provided, however, that this requirement may be waived by the Review Authority or, in the case of construction in A-20 or R-1, the Town Building Inspector, where the parcel exceeds five acres in size and the applicant demonstrates actual boundary location to the satisfaction of the Review Authority or the Town Building Inspector.

560.11. **Land Subject to Flooding.** Land which is subject to periodic or seasonal flooding shall not be used for the location or construction of buildings or structures of any kind except those which might require such land for a specific purpose. Certain uses of such land not requiring a structure may be permitted by the Town Board provided that such use does not cause a change in natural drainage and does not in any way add pollutants or noxious material to the area. This provision shall not apply to farming operations, either existing or new except that the construction of any new farm building for whatever purpose shall be accomplished on ground which is at least two feet above the highest known high water mark and no floor or entrance shall be constructed below this level. Where Stearns County ordinances are more restrictive they shall apply.

560.12. **Division of Land Subject to Platting Regulations.** Any transfer of less than the entire parcel of land owned shall be deemed to be a subdivision of said parcel subject to the rules and regulations contained in this Chapter. Any subdivision of property in the Urban Services (U-1) District requires platting, except for lot line adjustments.

560.13. **Easements.** Easements for the purpose of ingress and egress shall be a minimum of 33 feet wide.

560.14. **Private Swimming Pools, Spas, and Hot Tubs.** The placement, construction, or installation of a private swimming pool that has a depth of more than 24 inches or that holds over 5,000 gallons of water, or an outdoor spa or hot tub that holds over 100 gallons of water, shall comply with the requirements of this Subsection. Rented portable spas and hot tubs are exempt from the requirements of this Subsection, provided they do not remain on the property for more than 48 hours and they are secured when not in use. Such structures shall comply with the following requirements and limitations.

- (a) The pool, spa or hot tub shall be located so as to comply with all applicable structure setbacks applicable in the particular zoning district in which they are located. In no case may a swimming pool, hot tub or spa be located closer than 10 feet to any property line.
- (b) Back-flush water or water drained from the pool, spa or hot tub shall not be allowed flow onto adjacent land or into a public right-of-way.



- (c) Any lighting for the pool, spa or hot tub shall be directed at the surface of the water and shall not spill onto the adjacent property.
- (d) All pools, spas and hot tubs must be equipped with safeguards to prevent children from gaining uncontrolled access by the use of a fence, enclosure, or cover in accordance with the following.
  - (1) If a fence is used to prevent access, it must be at least six feet in height. The bottoms of the fence must not be more than four inches from the ground. Fences must be of a non-corrosive material and must be constructed so as to be not easily climbable. All fence openings or points of entry into the pool, spa or hot tub enclosure must be equipped with gates or doors. All gates or doors to swimming pools, spas and hot tubs must be equipped with self-closing and self-latching devices placed at sufficient height so as to be inaccessible to small children.
  - (2) A permanent structure with walls and a roof that completely encloses the pool, spa or hot tub and which contains a door or gate equipped with self-closing and self-latching devices placed at sufficient height so as to be inaccessible to small children.
  - (3) For an in-ground pool, spa or hot tub, as an alternative to a protective fence or other permanent structure an automatic pool cover may be utilized if it meets the American Society of Testing and Materials (ASTM) F1346-91 Standard, as such standards may be modified, superseded or replaced by ASTM. Such pool cover shall be closed when a responsible person is not present outdoors and within 25 feet of the pool.
  - (4) For an above ground pool, spa or hot tub as an alternative to a protective fence or other permanent structure the wall of the pool, spa or hot tub can serve as the fence provided the pool wall is at least six feet high measured from the ground and has an automatically retractable ladder or a removable ladder. The ladder must be removed or retracted when the pool is not being attended.
  - (5) If access to the pool, spa or hot tub is via a deck or porch, then no access from the ground is permitted to the deck areas unless the property or ground access to the deck is fenced.
  - (6) The Town Board may approve a combination of these methods or an alternative method for preventing access to a pool, spa or hot tub if the Town Board finds that such combination or alternative method will provide sufficient safeguards to prevent uncontrolled access by children.

560.15. **Feedlots.**

Subdivision 1. Intent. This Subsection is intended to comply with, add to, and be at least as restrictive than the other federal, state, and local laws, rules, regulations, and ordinances applicable to animal feedlots. This Subsection establishes regulations, through the adoption by reference of certain sections of the County's Ordinance, regarding the size, siting, and expansion of animal feedlots that are at least as strict as those imposed by the County. Where the requirements or restrictions imposed by any provision of this Subsection are either more restrictive or less restrictive than comparable requirements or restrictions imposed by any other law, statute, rule, ordinance, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. The regulations contained in this Subsection are intended to supplement, and not replace, the County's regulations. Property owners and residents within the Town remain subject to the County's regulations. Any person wishing to establish a new animal feedlot or to expand an existing animal feedlot within the Town must comply with the provisions of this Subsection and is responsible for contacting and complying with the requirements of other regulatory agencies. This Subsection does not relieve a person from having to obtain any permits or permissions that may be required from other agencies.

Subd. 2. Definitions, Regulations and Standards. The following sections of the County Ordinance related to animal feedlots are hereby adopted by reference and are incorporated into this Chapter:

- (a) The definitions related to animal feedlots in Section 3.2 of the County Ordinance;
- (b) The additional information required when applying for a conditional use permit for an animal feedlot in Section 4.8.1 of the County Ordinance;
- (c) The additional information required when applying for a variance related to an animal feedlot in Section 4.9.1 of the County Ordinance;
- (d) The requirement to obtain an animal feedlot permit in Section 4.14 of the County Ordinance;
- (e) The limitations of non-conforming structures and uses related to animal feedlots in Section 5.1 of the County Ordinance;
- (f) The provisions regarding nonconforming animal feedlots in Section 5.1.4 of the County Ordinance;
- (g) The setback and performance standards related to animal feedlots in Section 6.7.5 of the County Ordinance;
- (h) The animal unit density requirements in Section 6.7.6 of the County Ordinance; and

- (i) Any other sections of the County Ordinance that are necessary to give effect to the sections expressly adopted by reference and to provide for effective regulation of animal feedlots within the scope of the Town's authority.
- (j) The sections of the County Ordinance adopted by reference herein shall automatically include all future amendments adopted by the County to those sections without requiring any further action by the Town Board or the Joint Planning Board. Additionally, all references to the County in this Subsections adopted by reference shall be to the Town and shall otherwise be read and interpreted as part of this Chapter. Nothing in this Subsection shall exclude or exempt a property owner from having to comply with all other applicable federal, state, and local laws, rules, regulations, and ordinances. Additionally, nothing in this Subsection shall be interpreted to allow a feedlot in a zoning district not specifically allowed by this Chapter.

Subd. 3. State Standards and Environmental Regulations. Nothing in this Subsection shall be interpreted as the Town regulating the environmental impacts or standards of feedlots as delegate to the County from the Minnesota Pollution Control Agency, as the Town does not have the authority to regulate such areas. All provisions related to permits issued pursuant to Minnesota Rules, chapter 7020 and Minnesota Statutes, section 116.07, subd. 7a shall remain the authority of the County.

**560.16. Mandatory Sanitary Sewer Connection.**

Subdivision. 1. Required in Certain Cases. A property located within the R-1 District or U-1 District shall be required to connect to the City sanitary sewer system, which will require annexation into the City, if any of the criteria in subdivision 3 of this Section are met and a sanitary sewer line is available for connection.

Subd. 2. Sewer Line Availability. For the purpose of determining if a property is required to connect to the City sanitary sewer system, a sanitary sewer line shall be deemed available for connection if:

- (a) The sanitary sewer line is within 100 feet of the property to be served;
- (b) The connection to the sanitary sewer line can actually be made within 90 days of the determination of the need to connect (excluding periods when the ground is frozen);
- (c) The connection to the sanitary sewer line can be accomplished without installing a pump station, blasting bedrock, acquiring an easement or right-of-way to cross an adjoining property, or crossing a watercourse, railway, major highway, or other significant obstacle; and
- (d) The property to be served is located within the designated sewer service area of the City's sewage treatment plant to which the sanitary sewer line is connected.

Subd. 3. Connection Criteria. A property within the R-1 District or U-1 District shall connect to an available sanitary sewer line if any of the following occur:

- (a) The property contains a septic system or drain field that must be replaced under state or County regulations; or
- (b) A new structure is proposed to be constructed or placed on a property that requires the installation of a new septic system or drain field.

Subd. 4. Exceptions. A property is not required to connect to the City sanitary sewer system if:

- (a) The City determines a sanitary sewer line is not available for connection; or
- (b) If all structures on the property connected to a septic system are removed and the septic system is abandoned in accordance with the applicable requirements in Minnesota Rules, part 7080.2500 and County regulations.

## **Section 565 – Signs**

565.01. **Purpose and Intent.** The purpose of this Section shall be to coordinate the type, placement, and scale of signs within the different zoning districts to recognize the commercial communication requirements of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; to provide for the safety of the traveling public by limiting distractions, hazards and obstructions; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. These shall be accomplished by regulation of the display, erection, use and maintenance of signs. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this Chapter.

Because of its unique environmental setting, it is further the intent of this Chapter to encourage quality and aesthetics in the size, design and the materials used for sign construction; to enhance the overall appearance and image of the community; and to assure that the public is not endangered by the unsafe, disorderly or unnecessary use of signage. It is not, however, the purpose or intent of this Chapter to regulate the message displayed on any sign.

565.02. **Scope.** This Section applies to all signs intended to be viewed from any vehicular or pedestrian public right-of-way.

This Section shall not regulate government signs; the copy or message displayed on signs; signs not intended to be viewed from a public right-of-way; interior window displays; product dispensers; non-dynamic display scoreboards on athletic fields; flags; gravestones; barber poles; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign.

The owner of any sign which is otherwise allowed by this Section may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

565.03. **Sign Permits.** No sign shall be erected, altered, reconstructed, maintained or moved in the Town without first securing a permit from the Town through its Building Inspector. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Such permits shall be issued upon the submission of an application to the Building Inspector together with the payment of a permit fee to be set by the Town Board from time to time by resolution and which fee shall be non-refundable. Application for a permit shall be in writing addressed to the issuing authority and shall contain the following information:

- (a) Names and addresses of the owners of the display structure and property;
- (b) The address at which any signs are to be erected;

- (c) The lot, block and addition at which the signs are to be erected and the street on which they are to front;
- (d) A complete site plan showing the necessary elevations, distances, size and details to fully and clearly represent the construction and place of the signs;
- (e) A letter from the owner of the property where the sign is to be located giving the owner's permission to have the sign erected on the owner's property;
- (f) Type of sign (i.e. wall sign, monument sign, etc.);
- (g) Certification by applicant indicating the application complies with all applicable requirements of this Section;
- (h) If the proposed sign is along state trunk highway or interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign;
- (i) A statement as to whether the sign will be illuminated or if the sign will contain any type of dynamic display; and
- (j) Such other information as the Town may require to show compliance with this Section and all other applicable laws, ordinances, and regulations.

The Town shall approve or deny the sign permit in an expedited manner no more than 120 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 120 days shall be deemed approved. If the permit is denied, the Town shall prepare a written notice of within 10 days its decision, describing the applicant's appeal rights under this Section, and send it by mail or otherwise deliver it to the applicant.

**565.04. Exemptions.** The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this Section or any other law or Section regulating the same.

- (a) Signs six square feet or less in size;
- (b) One non-illuminated sign with a commercial message that does not exceed 32 square feet in sign area in the Residential Districts and 48 square feet in sign area in all other zoning districts may be placed upon a construction site. The sign must be removed within 10 days after completion of construction or issuance of a certificate of occupancy, whichever occurs first;
- (c) Holiday decorations;
- (d) Identification signs of two square feet in sign area or less;

- (e) Signs authorized by Minnesota Statutes, section 211B.045;
- (f) Government signs;
- (g) One sign with a commercial message per street frontage that does not exceed four square feet in sign area may be placed on a property that is for sale or lease. One sign with a commercial message per street frontage that does not exceed 32 square feet in sign area may be placed on a commercially zoned property that is for sale or lease. All signs permitted by this paragraph must be removed within seven days after the closing date of the sale or lease of the property;
- (h) Window signs;
- (i) Incidental signs that are two square feet in sign area or less;
- (j) Flags containing non-commercial speech only. Flags may be illuminated, provided the illumination source is directed toward the flag and is not able to be seen from any adjacent public roadway or residential use;
- (k) Signs of any size on vehicles traveling or lawfully parked on operating and insured vehicles, construction trailers, or equipment which are temporarily parked on a permitted construction site, or primary business location;
- (l) Temporary or permanent signs installed or placed by public utilities to warn the public;
- (m) Outdoor scoreboards in athletic stadiums that do not include dynamic displays;
- (n) Static signs or banners adorning fences located in permitted outdoor recreational facilities, provided they are placed so as to only be viewed internal to the play field area and are not placed so as to orient a commercial message toward an adjacent public road right-of-way;
- (o) On-premise directional signs without business identification are permitted in parking lots or driveways of properties containing a multi-family residential use and in parking lots or driveways of properties located in a commercial district. Said signs shall not exceed four square feet in total directional sign area. Said signs shall not exceed five feet in height, unless they are placed on a building;
- (p) One off-premise directional sign per avenue or block leading to a commercially zoned property that has a driveway that has been permanently closed by the road authority and for which no reasonable direct access remains, as determined by the Board. Said sign shall not be illuminated, shall not exceed two square feet in sign area and eight feet in height. No more than three off-premise directional signs shall be located on a single parcel;

- (q) Point of purchase display signs not to exceed one square foot in sign area;
- (r) Handicapped parking signs; and
- (s) One sign smaller than five square feet in sign area may be posted on any parcel of land, except that such sign may not be an off-premises sign and may not be illuminated or contain any dynamic display.

565.05. **Prohibited Signs.** The following signs are prohibited in all districts:

- (a) Signs on vacant or abandoned buildings, or signs located at businesses which have ceased to operate as commercial enterprises. Such signs shall be removed by the property owner within 30 days of abandonment or business cessation;
- (b) Signs imitating or resembling official traffic or public safety signs or signals in shape, size or color;
- (c) Snipe signs or signs attached to trees, telephone or utility poles, public benches, streetlights, or placed on any public property or public right-of-way, with the exception of government signs;
- (d) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs (this does not apply to permitted portable signs or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business);
- (e) Signs that interfere with the safe operation of official traffic control devices;
- (f) Signs that emit sound;
- (g) Signs anchored by guy wires, chains, cables or similar devices that project down to the ground or in any way which create an unsafe condition for pedestrians or motorists;
- (h) Dynamic displays on any moving motorized or non-motorized vehicle, except as may be allowed in a parade which has been approved by a political subdivision;
- (i) Roof Signs;
- (j) Swinging or other non-secured permanent signs; and
- (k) Billboards.

565.06. **Repairs.** Any sign located in the Town which may now be or hereafter become out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced,



reconstructed or moved contrary to the provisions of this Section, shall be removed or otherwise properly secured in accordance with the terms of this Section by the owners thereof or by the owners of the grounds on which said sign shall stand, upon receipt of proper notice so to do, given by the issuing authority. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this Section and upon a permit issued by the issuing authority.

All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The Building Inspector shall order the repair or removal of any sign which is defective, damaged, or substantially deteriorated. Replacement of support posts, columns, pylons or other structural supports for any sign shall constitute removal of such sign, and its replacement shall be done in compliance with the terms of this Section. Banners and other temporary signs when attached to non-utility poles, stakes, tents, buildings or other structures shall be well secured so that they are not blown around uncontrollably by the wind. Banners and other temporary signs shall be maintained such that they do not become ripped, torn, faded, defaced, damaged, loose, or unsecured.

Illuminated signs, if permitted by this Section, shall be backlit or indirectly lit and shall avoid direct casting of light upon property located in any residential district, upon public waters, or onto any public right-of-way. Signs in the Legacy Commercial District (C-1) may have direct lighting, provided that the light source has a shielded decorative exterior fixture which incorporates the same architectural design motif as the sign and the building, avoids casting of light away from the sign and building and is permanently maintained in the same manner. The fixture detail information must be provided with the sign permit application.

565.07. **Removal.** In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the ground on which the sign is located, to remove or repair said sign within 60 days after the use is terminated, a notice shall be given and the sign may be removed by the Town at the expense of the owner or manager of the sign, or the owner of the ground upon which the sign stands.

565.08. **Signs Permitted in the A-20, U-1, and R-1 Districts.** The following signs are permitted in a residential or agricultural district:

- (a) All signs mentioned above in Subsection 565.04.
- (b) One identification sign for each use other than residential. Such a sign shall not exceed four feet in width or four feet in length.
- (c) One sign identifying the entrance of a residential subdivision not exceeding four feet in width or four feet in length.
- (d) Home occupations are allowed no more than one sign not to exceed four square feet in sign area. The sign must be located in the front or side yard. Home occupation signs shall not be illuminated and shall not include a dynamic display.

- (e) All permitted freestanding signs shall have a maximum height limit of six feet and shall be set back at least 15 feet from any public right-of-way. The total width of the support structure of a freestanding sign shall not exceed the sign. There shall be landscaping or a planter that encompasses the support structure.
- (f) Dynamic displays may be approved as a conditional use for uses that do not contain any residences, subject to the provisions and standards of this Section. Appropriate restrictions on the dynamic display size may be approved by the Review Authority in order to minimize any negative impacts on the surrounding residential area.
- (g) Permitted non-residential uses with the exception of home occupations may display one banner per parcel with no sign permit being required. The banner shall not exceed 30 square feet in sign area and shall only be displayed for a maximum of 10 consecutive days in a six-month period running from January 1st to June 30<sup>th</sup> and July 1<sup>st</sup> to December 31<sup>st</sup>.

**565.09. Signs Permitted in the Legacy Commercial District.**

- (a) The following signs are permitted in Legacy Commercial District (C-1).
  - (1) Building wall signs not exceeding one square foot per lineal lot front foot or 10% of building frontage area, or 50 square feet, whichever is greater, which advertises or identifies a business located on the property.
  - (2) Free standing signs shall not exceed 50 square feet, which advertises or identifies a business located on the property.
  - (3) All signs mentioned above in Subsection 565.04.
- (b) Total square footage of all signs on a lot shall not exceed 100 square feet.
- (c) Signs may be attached to or erected flat against the wall of buildings. If free standing, they shall observe all setback and side yard lines. Sign structures may be single face, double face, or “V” type. All signs shall be subject to the same setback and height limitations as other buildings or structures in the districts in which they are located and such signs shall not be erected within 50 feet of any abutting residential district if designed to face directly into such district.

**565.10. General Regulations.** Unless expressly otherwise provided for in this Section, the following shall apply.

- (a) No sign shall be erected or maintained so as to prevent free ingress or egress from any door or window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

- (b) All signs are required to follow the setback and side yard requirements for other structures in the district where located. A sign shall not be located closer to the street or County Highway right-of-way than the required setback distance.

565.11. **Nonconforming Signs.** Existing signs which were legally erected, placed, or maintained which do not conform to the specific provision of this Section may continue in use in accordance with the following.

- (a) Any sign legally existing at the time of the passage of this Section that does not conform to the provisions of this Section shall be considered a legal nonconforming sign and may be continued through repair, replacement, restoration, maintenance, or improvement but not including, expansion. “Expansion” shall be defined as any structural alteration, change or addition that is made outside of the original sign structure or sign area, including the addition of a dynamic display.
- (b) When any legal nonconforming sign is discontinued for a period of more than one year, or is changed to a conforming sign, any future sign shall be in conformity with the provisions of this Section. Any legal nonconforming sign shall be removed and shall not be repaired, replaced, or rebuilt if it is damaged by fire or similar peril to the extent of 50 percent or less of its estimated market value at the time of damage and no sign permit has been applied for within 180 days of the date of destruction. The records of the County Assessor shall be used to determine whether a nonconforming sign has been destroyed 50 percent or less of its estimated market value at the time of destruction.
- (c) In the event a sign permit is applied for within 180 days of the date of destruction, the Board may impose reasonable conditions upon the sign permit in order to mitigate any newly created impact on adjacent properties.
- (d) A lawful nonconforming sign shall not be changed to a similar nonconforming sign or to a more restrictive nonconforming sign.

565.12. **Special Event.**

**Subdivision 1. Permit Required.** Temporary signs may not be displayed at a special event without first applying for and obtaining a special event sign permit from the Town.

- (a) All signs requiring a special event sign permit will be required to pay an application fee as specified by the Town’s fee schedule.
- (b) An application for a special event sign permit must be made on the forms provided by the Town, filed with the Town, and must include the following information:
  - (1) The name, address and telephone number of the applicant;

- (2) The address and location of the property in which the signs will be placed;
  - (3) The number and types of temporary signs that are proposed to be used during the special event, along with their dimensions;
  - (4) The duration of the special event; and
  - (5) Such other information as the Town may request to show compliance with this Section and all other applicable laws, ordinances, and regulations.
- (c) Upon the filing of a complete special event sign permit application, the Building Inspector shall review the application materials submitted. If the proposed signs comply with this Section and all other applicable laws, ordinances, and regulations, the Town Building Inspector shall issue a special event sign permit for the signs.

Subd. 2. District Requirements. A special event sign permit may be approved for a parcel within the following zoning districts in accordance with the following standards.

- (a) In the A-20 District, one special event sign permit for up to 10 consecutive days in any three month period, running from January 1<sup>st</sup> to March 31<sup>st</sup>, April 1<sup>st</sup> to June 30<sup>th</sup>, July 1<sup>st</sup> to September 30<sup>th</sup> and October 1<sup>st</sup> to December 31<sup>st</sup>.

Subd. 3. Permitted Devices. The devices described below are permitted, in addition to the maximum allowable temporary sign area, with a special event sign permit provided that they are correctly and safety installed and the following requirements are met.

- (a) Balloons.
  - (1) Small balloons, as either an individual or group of connected balloons shall not exceed four feet as the largest dimension. Balloon arches may be approved extending across private driveways, but shall not exceed 20 feet in height and may not be placed in the public right-of-way. Balloon arches over public streets are exempt from special event sign permit requirements, but the street must first be closed by the road authority.
  - (2) Balloons may be multicolored and incorporate logos and messages.
  - (3) Helium balloons must be regularly maintained and refilled.
  - (4) Helium or inflated balloons may be extended into the sky provided that they are securely attached and anchored to the ground. The length from the vertical attachment point shall not exceed a total site horizontal distance greater than any radial point of the parcel property line or any overhead utility service line. No balloon shall extend to a height greater than 100 feet from the ground.

(b) Tents.

- (1) Tents displaying signs, including all ties, ropes, stakes and other equipment, shall be located entirely upon the property identified by the special event sign permit and shall comply with the setback requirements for accessory structures. Tents shall also comply with all applicable building and fire code requirements, if applicable.

(c) Bannerettes.

- (1) Bannerettes may be placed on light standards or flagpoles.
- (2) No more than one bannerette shall be allowed per light standard or flagpole on the parcel. Multiple bannerettes may be staked in the ground on the parcel, provided they are set back a minimum of 10 feet from the street right-of-way line and do not exceed a height of four feet.

(d) Banners.

- (1) Banners may be attached to non-utility poles, tents, and buildings, provided they are well secured and are prevented from being blown around uncontrollably by the wind.
- (2) A total of two banners may be permitted. Each banner may be up to 100 square feet in sign area. For multi-tenant centers, three or more tenants may each display a banner with a special event sign permit, provided that all of the banners are attached to the building and no individual banner exceeds 30 square feet in sign area.
- (3) Banners shall not be higher than the front wall of the principal building on the lot.
- (4) All banners shall be maintained so that they do not become ripped, torn, defaced, damaged, loose, or unsecured.

(e) Inflatable Devices.

- (1) A maximum of one inflatable device may be permitted per parcel. It shall not exceed a height of 24 feet.
- (2) Inflatable devices may be multicolored and incorporate banners, logos and non-dynamic signs.
- (3) Individual helium inflatable devices larger than four feet in diameter shall be prohibited.

- (4) Inflatable devices must be anchored or tethered in a safe manner and must be kept in a weather tight and presentable condition.
  - (5) Inflatable devices may be located on green space or in parking lot areas, but shall not be located on rooftops.
  - (6) Inflatable devices larger than four feet in diameter shall comply with the setback requirements for accessory structures.
- (f) Searchlights.
  - (1) Searchlights shall not be used for a duration of more than three consecutive nights.
- (g) Portable Dynamic Display Signs.
  - (1) A maximum of one portable dynamic display may be allowed per parcel per special event sign permit. The portable dynamic display sign may be allowed in addition to any approved permanent dynamic display(s) on the parcel, unless otherwise specified by this Section.
  - (2) The temporary placement of the portable dynamic display sign shall comply with all permanent sign setbacks for the district in which the parcel is located.
  - (3) The portable dynamic display sign shall only be operated in a stationary position on the parcel and cannot be moved to and from, or upon the parcel, while in operation.
  - (4) The portable dynamic display sign shall comply with all programming requirements for dynamic displays as specified by this Section.
- (h) Off-Premises or Directional Signs.
  - (1) Off-premises or directional signs shall be prohibited. Any violation of this provision shall be sufficient cause for immediate revocation of an approved special event sign permit.

Subd. 4. **Prohibited Signs for Special Events.** The devices described below are prohibited for special events:

- (a) Animated or dynamic display signs, beacons and flashing light bulb strings located in minimum required setback areas;
- (b) Displays or special features on roofs;

- (c) Swinging signs;
- (d) Large balloons exceeding four feet in diameter, or collections of small balloons exceeding four feet in diameter, except for approved balloon arches;
- (e) Any sign in the public right of way; and
- (f) Hot air inflatable devices.

## **Section 570 – Solar Energy Systems**

570.01. **Permit Required.** The installation, placement, or expansion of any residential solar energy system shall require issuance of a permit by the Town. A site plan review shall also be required prior to the issuance of such permit.

### **570.02. Residential Solar Energy Systems.**

Subdivision 1. **Allowed.** Rooftop residential solar energy systems shall be allowed on residential dwellings.

#### **Subd. 2. Installation.**

- (a) Rooftop residential solar energy systems shall be mounted parallel to the plane of the roof, shall not extend more than one foot above the plane of the roof, shall not be located any closer than three feet from any side, top or bottom edge of the roof, and shall not occupy more than 75% of the area of the roof plane it is affixed to.
- (b) Residential solar energy systems located on agricultural structures may include rooftop systems. Rooftop systems shall not project more than four feet above the plane of the roof nor be located closer than six feet from the outer edge of the roof top.
- (c) Ground-mounted residential solar energy systems shall be permitted on parcels of land. Ground-mounted residential solar energy systems shall not exceed fifteen feet in height, shall not be located in any required setback area, and shall not be located closer than 50 feet to an existing adjacent residence.

#### **Subd. 3. General Requirements and Prohibitions.**

- (a) No solar energy systems shall create or cause unreasonable glare on other property or public roadways. Unreasonable glare shall mean a degree of glare that creates a nuisance for other property owners or that creates a public safety hazard for those traveling on public roadways as determined by the Town Board or the appropriate roadway authority.
- (b) No solar energy system shall be allowed to create interference with television, cable, radio, telephone, internet, computers or other electronic devices and services on neighboring properties, or be allowed to otherwise constitute a public nuisance.
- (c) Electric power lines within all ground-mounted residential solar energy systems shall be buried underground.



- (d) All residential solar energy systems shall be consistent with applicable State Building Codes, State Electrical Codes, State Plumbing Codes and all other applicable state and federal requirements.
- (e) All applicable solar energy equipment shall be certified by either the Underwriters Laboratories (UL) or Canadian Electrical Code (CSA 22.1), or the Solar Rating and Certification Corporation (SRCC) for thermal systems.
- (f) All solar energy systems unused, abandoned or inoperable for more than twelve months shall be removed by the system owner or the property owner.
- (g) Fencing, landscaping, and other screening may be required for any ground-mounted solar energy system. Deviations from dimensional standards (including setbacks) may be considered by the Town Board for permitting, based upon mitigation of off-site impacts through fencing, landscaping, screening, or other mitigation measures.
- (h) All permit applications for ground-mounted residential solar energy systems shall include a description of the vegetation or material under the solar system components and the method of ground care and vegetative maintenance.
- (i) Residential solar energy systems lawfully installed prior to the effective date of this Section are allowed to continue without a zoning permit, except that the expansion or replacement of any such residential solar electric system shall require a zoning permit from the Town.

## **Section 575 – Tower Regulations**

575.01. **Purpose.** The purpose of this Section is to accommodate the communication needs of residents and businesses while protecting public health, safety and general welfare of the community. The Town finds that these regulations are necessary in order to:

- (a) Facilitate the provision of wireless communication services to residents and businesses;
- (b) Minimize adverse visual effects of towers through careful design and site standards;
- (c) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
- (d) Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.

575.02. **Facilities within Town Right-of-Ways.** The placement of small wireless facilities and wireless support structures within Town road right-of-ways is regulated by Chapter III, Section 305 of the Le Sauk Township Code.

575.03. **Permitted Towers.** The construction and maintenance of an amateur radio tower, residential television tower or exempted dish is a permitted use within any zoning district.

575.04. **Towers Requiring a Conditional Use Permit.** The construction and maintenance of a tower shall be permitted within the following zoning districts, pursuant to a conditional use permit granted in accordance with this Section.

Subdivision. 1. Agricultural District (A-20). All permitted towers and antennas.

Subd. 2. Urban Services District (U-1). All permitted towers and antenna.

Subd. 3. Residential District (R-1). All permitted towers and antennas.

Subd. 4. Legacy Commercial District. Building mounted antennas, and antennas not attached to a tower.

575.05. **General Performance Standards.** All towers shall comply with the performance standards set out in this Subsection.

Subdivision 1. Multi-User Requirements. A proposal for a new commercial wireless communication tower shall not be approved unless the Review Authority finds that the telecommunications equipment plans for the proposed tower cannot be accommodated by an

existing or approved tower or building within a two mile search radius of the proposed tower due to one or more of the following reasons:

- (a) The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be re-enforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- (b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
- (c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- (d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

Any proposed commercial wireless telecommunication service tower shall be designed (structurally and electronically) in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. The tower must be designed to allow for future re-arrangement of antennas upon the tower and to accept antennas mounted at various heights.

Subd. 2. Tower and Antenna Design Requirements. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Commercial wireless telecommunication service towers shall be of a monopole design unless the Review Authority determines that an alternative design would better blend in the surrounding environment or allow for greater future multi-use.

Subd. 3. Landscaping and Screening. The Review Authority may establish, as a condition of approval of a commercial tower, reasonable requirements relating to landscaping and screening to improve the aesthetic appearance of the base of the tower and accessory buildings. Existing on-site vegetation should be preserved to the maximum extent possible.

Subd. 4. Fencing. All commercial towers and accessory buildings shall be enclosed within a galvanized chain link fence with a locked gate to prevent unauthorized entry. The fence shall be at least six feet, but not greater than ten feet, in height. Any fence less than eight feet in height shall be constructed with at least three strands of barb wire strung along the top of the fence.

Subd. 5. Construction Standards. All towers shall be constructed and maintained in accordance with the Electronic Industry Association Standards and all applicable building codes.

Subd. 6. Minimum Spacing. Minimum spacing between commercial tower locations is one-half mile.

575.06. **Conditional Use Application Submittal**. In addition to the information generally required to accompany a request for a conditional use permit as found in this Section, applications for towers shall include the following supplemental information:

- (a) A report from a qualified and licensed engineer which:
  - (1) Describes the tower height and design, including a cross section and elevation.
  - (2) Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas.
  - (3) Describes the towers capacity, including the number and type of antennas it can accommodate.
  - (4) Describes how the applicant will take to avoid interference with established public safety communication.
  - (5) Includes the engineer's stamp and registration number.
  - (6) Includes other information necessary to evaluate the request.
- (b) Letter of intent committing the tower owner, and successors, to allow the shared use of the tower if any additional user agrees in writing to meet reasonable terms and conditions for shared use.
- (c) Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.
- (d) A report from a qualified professional engineer which demonstrates the tower compliance with all applicable structural and electrical standards.
- (e) A site plan showing the boundaries of the property on which the tower is located, adjacent land uses, the location of the tower and any accessory buildings within the property, distance setbacks from property lines for the tower and accessory buildings, fence locations, and proposed landscaping or screening.
- (f) A bond or other form of security approved by the Review Authority, posted for the purpose of reimbursing the Review Authority for cost of removal of the tower in the event its use is discontinued.

575.07. **Building Mounted Antennas.** The placement of a wireless telecommunication antennas on roofs of walls of existing buildings or structures shall be approved by the Review Authority as a conditional use provided that the antennas meet the requirements of this Section, after submittal of a final site and building plan, and a report prepared by qualified professional engineer indicating the existing building or structures suitability to accept the antenna as well as a proposed method for affixing the antenna to the structure. Complete details of all fixtures, couplings, and the precise point of attachment shall be indicated.

575.08. **Amateur Radio and Residential Television Towers.** Amateur Radio Towers, Residential Television Towers and antennas are subject to the standards and conditions established by this Section, except for those specific to commercial towers. The Review Authority may waive strict compliance with this Section if it finds that the stated purpose of this Section is met.

575.09. **Tower Setbacks.** All towers shall conform with the following minimum setback requirements.

Subdivision 1. **Property Lines.** All towers shall be set back from property lines a minimum of 125% of the height of the tower, including all antennas and attachments. The height of the tower shall be measured from the average grade of the property on which it is located or the actual tower height, whichever is greater.

Subd. 2. **Accessory Buildings.** Buildings accessory to a tower shall comply with the setback requirements of the zone in which the tower is located.

Subd. 3. **Schools and Dwellings.** Commercial towers shall be set back a minimum of 500 feet from schools or structures used as dwellings and a minimum of 300 feet from property zoned for residential use. A change in the use of the property adjacent to an existing commercial tower does not render the tower a nonconforming use, if the tower was in conformance with this Section when constructed.

Subd. 4. **Alterations.** A tower setback may be reduced or varied, at the sole discretion of the Review Authority, if the variance will facilitate the integration of the tower into an existing or proposed structure, such as a church steeple, light standards, power line support device or similar structure.

575.10. **Prohibitions.**

Subdivision 1. **Tower Lighting.** A tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other state or federal authority for a particular tower. When incorporated into the design standards of the tower, light fixtures to illuminate ball fields, parking lots or similar areas may be attached to the tower.

Subd. 2. Signs and Advertising. The use of any portion of a tower for signs other than a warning or equipment informational signs is prohibited.

Subd. 3. Interference of Public Safety Communications. No new or existing telecommunication service shall interfere with public safety communications. All applications for a conditional use permit for new service shall be accompanied by an intermodulation study which provides the technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of a new service or change in existing service, telecommunication providers shall notify the Review Authority at least 48 hours in advance of such changes and allow the Review Authority to monitor interference levels during the testing process.

575.11. **Abandoned or Unused Towers**. Abandoned, unused towers or portions of towers shall be removed as follows:

Subdivision 1. Timeline. All abandoned, unused towers, and associated facilities shall be removed within 12 months of the cession of operations at the site unless a time extension is approved by the Review Authority. In the event the tower is not removed within 12 months of cession of operations at the site, the tower and the associated facilities may be removed by the Review Authority and the cost of removal assessed against the property.

Subd. 2. Unused Portions. Any unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

## **Section 580 – Shoreland Regulations**

580.01. **Adoption.** Towns are authorized, but not required, by Minnesota Statutes, section 103F.221 and Minnesota Rules, part 6120.3900, subpart 4a to adopt and regulate shorelands within their respective jurisdictions. If a town does not adopt shoreland regulations, Minnesota Statutes, section 103F.215 makes the county responsible for adopting and administering shoreland regulations. In order to ensure at least a certain level of uniform protections for shorelands, the Minnesota Department of Natural Resources has established certain regulations that must be part of local shoreland regulations. The County has established shoreland regulations that have applied to the Town since adoption. However, once the County worked to eliminate the memorandum of understanding it had with the Town, and the other towns in the County, the County indicated a desire to have the Town administer shoreland regulations locally. In furtherance of that request, the following shoreland regulations are adopted for the Town. However, in order to avoid simply restating the County's shoreland regulations in this Section, the following adopts the County's shoreland regulations by reference. The regulations adopted by reference are limited to those applicable to shorelands within the jurisdictional boundaries of the Town and references therein to the County or to any of its commissions or staff shall be to the Town, the Joint Planning Board, the City and their respective staffs as appropriate. The regulations adopted by reference include those additional provisions of the County Ordinance needed to give effect to those specifically identified as being adopted. To the extent the regulations adopted by reference are in anyway less strict than the other applicable regulations contained in this Chapter, the stricter provisions of this Chapter shall control. The adoption by reference of the County's shoreland regulations does not expand the uses allowed in the shoreland overlay district.

580.02. **Shoreland Overlay District.** The following sections of the County Ordinance related to shoreland regulations, including those parts of the County Ordinance required to make them operative, are hereby adopted by reference and incorporated into this Section within respect to shoreland areas within the Town.

(a) Section 4.15, addressing shoreland alteration permits.

(b) Section 10.2, regarding the shoreland overlay district.

580.03. **Review Procedures.** Applications for zoning approvals within the shoreland overlay district shall be subject to the review procedure identified in Subsection 590.02 for the particular type of request in the primary zoning district in which the property is located.

580.04. **Additional Notices.** When processing a zoning request requiring a public hearing for a property located within the shoreland overlay district, the Town shall provide the Minnesota Department of Natural Resources the following notices.

Subdivision 1. **Hearing Notice.** A copy of the hearing notice, which shall be postmarked at least 10 days before the date of the hearing.

Subd. 2. Final Action. A copy of the final action on conditional use permits, variances, and amendments to the shoreland regulations, which shall be postmarked within 10 days of the final decision on such matters.

580.05. **Additional Regulations**. Properties located within the shoreland overlay district are subject to the following additional regulations.

Subdivision. 1. Feedlots. The establishment or expansion of a feedlot is prohibited.

Subd. 2. County Prohibitions. A use not allowed by the County Ordinance in the shoreland overlay district is prohibited in the Town's shoreland overlay district.



## **Section 585 – General Permitting Requirements**

### **585.01. Applications.**

Subdivision 1. Form. All applications must be on the form approved for the particular type of zoning approval being sought and must contain all of the information required on the form and this Chapter. Any application that is not submitted on the correct form shall be rejected and shall not be processed.

Subd. 2. Completeness. An applicant shall provide, as part of the application, all of the information required on the form and by this Chapter. Applications shall be submitted to the Town. If an application is not complete, the Town shall provide the applicant written notice of what information is needed in order to make the application complete within 15 business days of its receipt of the application. If all of the required information is not submitted within 30 days from the date of the written notice, the application shall be deemed withdrawn, shall not be processed, and shall be returned to the applicant together with the submitted fee.

Subd. 3. Fees. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow to the Review Authority within five days of the submission of the application or the application shall be deemed incomplete and shall not be processed.

**585.02. Unpaid Taxes or Charges.** Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that has any outstanding amounts owed for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs are owed, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full. No permit or variance shall be issued to any of the above described properties until all past due amounts, penalties, and interest have been paid in full. Any unpaid any zoning related fees, charges, or costs owed may be collected by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The certifying authority shall provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

### **585.03. Fees.**

Subdivision 1. Application Fee. Applicants shall be required to pay an application fee when submitting an application under this Chapter. Application fees shall be in the amount established by fee schedule and are intended to defray the administrative costs of processing

requests. Application fees submitted as part of a complete application are not refundable, regardless of whether the application is approved, denied, or withdrawn;

Subd. 2. Escrow. In order to defray the additional costs the Review Authority may incur to process a request made under this Chapter, applicants may also be required to reimburse the Review Authority for all consulting costs it incurs related to the particular request. Consulting costs include, without limitation, all attorney, planner, and engineering fees incurred related to the request. An applicant may be required to escrow cash with the Town in the amount determined by the Town from which the Review Authority will reimburse itself for the consulting costs it incurs. The applicant remains responsible for all such costs and shall promptly escrow additional funds if the Town Board determines the existing escrowed amount will not be sufficient to fully reimburse the Town for its costs. Failure to promptly provide additional funds or to otherwise fully reimburse the Review Authority for its consulting cost shall be a sufficient basis on which to delay the processing of a request or to deny a request.

Subd. 3. Reimbursement in Full Required. Upon the termination of the application, by an approval, denial, withdrawal, or any other means, all costs incurred by the Review Authority shall be immediately payable by the applicant. If no escrow was required, or if the Review Authority's costs exceed the escrowed amount, the Review Authority will provide the applicant a written statement of the amount to be reimbursed. The stated amount shall be paid in full within 30 days from the date of the written statement. If the escrowed amount exceeds the Review Authority's costs, the excess shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property pursuant to the zoning request shall be made until all fees and costs are paid in full. In the event that payment of costs is not made within a reasonable time after demand, the Review Authority may take such steps as are available to it under law to collect the unreimbursed amounts, including collection costs. The steps the Review Authority may take to recover its costs include, but are not limited to, placing the amount on any property the person owns in Minnesota as a service charge pursuant to Minnesota Statutes, section 366.012, filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or taking such other action as may be deemed appropriate to obtain full reimbursement for the Review Authority for all costs it incurs related to the application.

Subd. 4. Fees Established. The Town Board shall establish the amount of application fees, escrows (if required), and such other fees and charges as provided by this Chapter in a separate resolution or ordinance that shall be kept on file with the Town Clerk.

585.04. Site Investigations. The Review Authority may conduct one or more site investigations of the property as part of processing a zoning request. If a quorum or more of the Review Authority conducts a site investigation, notice shall be posted at its posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Review Authority may also conduct one or more site investigations after a zoning approval has been issued to review an alleged or potential violation of the applicable conditions or of this Chapter. Submission of an application and acceptance of a zoning approval constitutes consent on the part of the owners of the property to the conditions imposed on the zoning approval and to allow the Review Authority to conduct inspections of the property at reasonable

times to determine eligibility to receive the requested zoning approval and then related to the administration and enforcement of the approval.

585.05. **Amended Permit.** Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by the zoning approval shall require that the approval be amended. An application to amend an existing zoning approval shall be administered in the same manner that is required for a new zoning approval. All application and review procedures shall apply.

585.06. **Limit on Similar Applications.** No application of an owner for an amendment to the text of this Chapter or the Zoning Map shall be considered by the Review Authority within a one-year period following a denial of such request, except that a new application may be allowed if, in the opinion of the Review Authority, there is new evidence or a sufficient change of circumstances to warrant additional consideration of the proposal.

585.07. **Administration.**

Subdivision 1. **Authority.** The Town Clerk, Building Inspector, and Town Attorney are authorized to carry out their respective duties with respect to the administration and enforcement of this Chapter.

Subd. 2. **Town Clerk.** In addition to all other duties assigned to the Town Clerk in this Chapter, the Town Clerk shall be authorized to do each of the following:

- (a) Determine if an application is complete and, if not, to identify the material needed in order to make it complete;
- (b) Provide notices required under this Chapter;
- (c) Keep and record documents as provided under this Chapter, including keeping the official copy of this Chapter;
- (d) Incorporate any amendments made to this Chapter, which shall be executed and kept as the official copy of this Chapter;
- (e) Collect fees and escrows, including administering escrows and returning any unused balance;
- (f) Track the application of the 60 day rule and provide notices and extension as may be needed and;
- (g) Consult with the Town Attorney as may be needed to assist in the administration of this Chapter.

Subd. 3. **Notices.**

- (a) Mailed notices provided for under this Chapter shall be mailed using the same address indicated on the Stearns County website for the mailing of property tax statements.
- (b) This Chapter provides for the giving of notices that are in excess of the notices required by law. These additional notices are provided for in an attempt to keep residents informed and the Town will use good faith efforts to give such notices, but its failure to provide such notices, or a residents failure to receive them, shall not invalidate any action on the matter to which it relates.

### **Section 590 – Review Procedures**

590.01. **Intent.** The following review procedures are established to give effect to the different procedures and final decision-making authority negotiated between the Town and the City for how best to process requests from within the different zoning districts established in this Chapter.

590.02. **Chart of Required Review Procedures.** The zoning requests identified on the left side of the following chart shall be submitted and processed in accordance with the type of review procedure identified for the particular zoning district in which the property is located. The procedures established for the different types of reviews are described following this Subsection, but are summarized as follows:

- **Type 1:** Town Administrative;
- **Type 2:** Town Final Decision;
- **Type 3:** Joint Planning Board Final Decision; and
- **Type 4:** City Council Final Decision.

	<b>Town Agricultural District (A-20)</b>	<b>Urban Services District (U-1)</b>	<b>Town Residential District (R-1)</b>	<b>Legacy Commercial District (C-1)</b>
<b>Administrative Permits</b>	Type 1	Type 1	Type 1	Type 1
<b>Site Plans*</b>	Type 1	Type 3	Type 2	Type 2
<b>Conditional Use Permits</b>	Type 2	Type 4	Type 2	Type 3
<b>Interim Use Permit</b>	Type 2	Type 3	Type 2	N/A
<b>Variances</b>	Type 2	Type 4	Type 2	Type 2
<b>Ordinance Text Amendments</b>	Type 2	Type 3	Type 3	Type 3
<b>Rezoning</b>	Type 2	Type 4	Type 2	Type 3
<b>Subdivision of parcels containing 40 or more acres</b>	Type 1	Type 3	N/A	N/A
<b>Subdivision of parcels containing less than 40 acres</b>	Type 2	Type 4**	Type 2	N/A
<b>Lot line adjustment / Lot combination</b>	Type 1	Type 3	Type 2	Type 2

\* A public hearing is not required for review and action on a site plan.

\*\* A variance is required to allow a subdivision that results in any lot containing less than 40 acres.

**590.03. Type 1 Review Procedure (Town Administrative).** Applications for zoning requests subject to a Type 1 review procedure shall be submitted, processed, and decided upon in accordance with this Subsection.

Subdivision 1. Application. The applicant shall submit its application for the zoning approval to the Town Clerk. The Town Clerk shall forward complete applications to the Town Board, with a copy to the City.

Subd. 2. Hearing. Except when specifically required by law or this Chapter, the Town Board is not required to conduct a hearing before taking final action on a zoning request subject to a Type 1 review. When a hearing is required, the Town Board will provide at least 10 days published notice and hold a hearing before taking final action on the request.

Subd. 3. Decision. The Town Board shall review the application, consider the applicable provisions and criteria in this Chapter, and decide whether to approve the application. The Town Board may place conditions on its approval. The Town will provide the applicant written notification of its decision, which may be in the form of a permit.

**590.04. Type 2 Review Procedure (Town Final Decision).** Applications for zoning requests subject to a Type 2 review procedure shall be submitted, processed, and decided upon in accordance with this Subsection.

Subdivision 1. Application. The applicant shall submit its application for the zoning approval to the Town Clerk. The Town Clerk shall forward complete applications to the Joint Planning Board to conduct a hearing.

Subd. 2. Notice. At least 10 days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within 1,320 feet of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

Subd. 3. Hearing; Recommendation. The Joint Planning Board shall conduct a public hearing, discuss, and then act to forward the application to the Town Board with a written recommendation on whether the application should be approved or denied. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Joint Planning Board's questions. In reviewing the request and developing its recommendation, the Joint Planning Board shall consider the applicable criteria set out in this Chapter and such other factors as it determines are appropriate to evaluate the application. If the Joint Planning Board recommends approval of the application, its written recommendation shall include any

conditions it recommends be placed on the approval. The Joint Planning Board shall forward its recommendation, together with its supporting findings, to the Town Board.

Subd. 4. Town Board. The Town Board shall make the final decision on the application after receipt of the Joint Planning Commission's written recommendation, or after 45 days from receipt of the complete application if the Joint Planning Board fails to make a recommendation in that time. The Town Board shall not approve the application unless it determines the particular request satisfies the applicable criteria established in this Chapter. The Town Board may impose such conditions on its approval as it determines is appropriate. The Town will provide the applicant written notification of its decision, which may be in the form of a permit. An applicant shall be deemed to have agreed to the conditions imposed on the approval unless the applicant expressly rejects the entire approval in writing within 10 days of the Town Board's action to approve.

590.05. **Type 3 Review Procedure (Joint Planning Board Final Decision)**. Applications for zoning requests subject to a Type 3 review procedure shall be submitted, processed, and decided upon in accordance with this Subsection.

Subdivision 1. Application. The applicant shall submit its application for the zoning approval to the Town Clerk. The Town Clerk shall forward complete applications to the Town Board to conduct a hearing.

Subd. 2. Notice. At least 10 days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within 1,320 feet of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

Subd. 3. Hearing; Recommendation. The Town Board shall conduct a public hearing, discuss, and then act to forward the application to the Joint Planning Board with a written recommendation on whether the application should be approved or denied. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Town Board's questions. In reviewing the request and developing its recommendation, the Town Board shall consider the applicable criteria set out in this Chapter and such other factors as it determines are appropriate to evaluate the application. If the Town Board recommends approval of the application, its written recommendation shall include any conditions it recommends be placed on the approval. The Town Board shall forward its recommendation, together with its supporting findings, to the Joint Planning Board.

Subd. 4. Joint Planning Board. The Joint Planning Board shall make the final decision on the application after receipt of the Town Board's written recommendation, or after 45 days from receipt of the complete application if the Town Board fails to make a recommendation in that time. The Joint Planning Board shall not approve the application unless it determines the particular request satisfies the applicable criteria established in this Chapter. The Joint Planning Board may impose such conditions on its approval as it determines is appropriate. The Joint

Planning Board will provide the applicant written notification of its decision, which may be in the form of a permit. An applicant shall be deemed to have agreed to the conditions imposed on the approval unless the applicant expressly rejects the entire approval in writing within 10 days of the Joint Planning Board's action to approve.

590.06. **Type 4 Review Procedure (City Final Decision)**. Applications for zoning requests subject to a Type 4 review procedure shall be submitted, processed, and decided upon in accordance with this Subsection.

Subdivision 1. **Application**. The applicant shall submit its application for the zoning approval to the City's Planning and Community Development Department. The City shall forward complete applications to the Joint Planning Board to conduct a hearing.

Subd. 2. **Notice**. At least 10 days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within 1,320 feet of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

Subd. 3. **Hearing; Recommendation**. The Joint Planning Board shall conduct a public hearing, discuss, and then act to forward the application to the City Council with a written recommendation on whether the application should be approved or denied. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Joint Planning Board's questions. In reviewing the request and developing its recommendation, the Joint Planning Board shall consider the applicable criteria set out in this Chapter and such other factors as it determines are appropriate to evaluate the application. If the Joint Planning Board recommends approval of the application, its written recommendation shall include any conditions it recommends be placed on the approval. The Joint Planning Board shall forward its recommendation, together with its supporting findings, to the City Council.

Subd. 4. **City Council**. The City Council shall make the final decision on the application after receipt of the Joint Planning Commission's written recommendation, or after 45 days from receipt of the complete application if the Joint Planning Board fails to make a recommendation in that time. The City Council shall not approve the application unless it determines the particular request satisfies the applicable criteria established in this Chapter. The City Council may impose such conditions on its approval as it determines is appropriate. The City Council will provide the applicant written notification of its decision, which may be in the form of a permit. An applicant shall be deemed to have agreed to the conditions imposed on the approval unless the applicant expressly rejects the entire approval in writing within 10 days of the City Council's action to approve.

590.07. **Requests for Annexation**.

Subdivision 1. **Policy**. This Chapter reflects several policy decision, including that the subdivision of property within the Urban Services (U-1) District that results in lots containing



less than 40 acres, which normally occurs as part of a residential or commercial development, needs to occur within the City and be subject to the City's subdivision and other applicable regulations. This policy position was arrived at through extensive negotiations with the City, recognizes the U-1 District is the area in which it is logical for the City to expand into, is the area in which the City has planned for the extension of its utilities, and helps to avoid development within the U-1 District that interferes with the orderly development of the City and the cost-efficient extension of services. Therefore, those seeking to develop their land in the U-1 District in less than 40-acre parcels are encouraged to discuss their plans with the City and, if it appears the proposed development is feasible and supported by the City, to submit a request for annexation to the City.

Subd. 2. Request. An owner within the Town desiring to request annexation of their property into the City is required to submit a petition for annexation in accordance with the procedures established by the City and in accordance with the terms of the most current version of the Orderly Annexation Agreement in effect between the City and the Town.

## **Section 595- Conditional Use Permits**

595.01. **Conditional Uses.** A classification of conditional uses is hereby established to provide for the location of certain uses, specifically mentioned and authorized in certain specified districts, such uses to be allowed through the issuance of a conditional use permit. No use requiring a conditional use permit shall be initiated or expanded except upon issuance of a conditional use permit from the Review Authority pursuant to this Section.

595.02. **Procedure.** An application for a conditional use permit shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with the designated type of review.

595.03. **Review Criteria.** The following criteria shall be considered when reviewing and acting on a conditional use permit request.

- (a) Whether the use will be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the Town.
- (b) Whether the use will be designed, constructed, operated, and maintained to be consistent with other allowed uses in the area and is compatible with the neighborhood.
- (c) Whether the use will unreasonably interfere with or devalue surrounding properties.
- (d) Whether the use will create an excessive burden on roads or other public infrastructure, or create an unreasonable cost to the public.
- (e) Whether the use involves activities, processes, materials equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, scenic blight, glare or odors.
- (f) Whether the use will have sufficient available parking.
- (g) Whether the use will cause traffic hazards or congestion.
- (h) Whether the use will be in conformance with the provisions of this Chapter, and will not unreasonably interfere with the health, safety, and welfare of the surrounding owners and the public, if conducted in compliance with the conditions imposed on the permit.

595.04. **Recording.** If the application is approved, the conditional use permit shall be recorded in the office of the County Recorder or Registrar at the owners' expense.

595.05. **Expiration and Revocation.** A conditional use permit shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Review Authority may revoke a conditional use permit it has issued if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

## **Section 600 – Interim Use Permits**

600.01. **Interim Uses**. A classification of interim uses is hereby established to provide for the location of certain temporary uses, specifically mentioned and authorized in certain specified districts, such uses to be allowed through the issuance of an interim use permit that terminates on a particular date or upon the occurrence of a particular event. No use requiring an interim use permit shall be initiated or expanded except upon issuance of an interim use permit as provided in this Section.

600.02. **Procedure**. An application for an interim use permit shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with the designated type of review.

600.03. **Criteria**. The following criteria shall be considered when reviewing and acting on an interim use permit request.

- (a) Whether the proposed use meets the applicable standards set forth for conditional use permits.
- (b) Whether the use will terminate upon a date or event that can be identified with certainty.
- (c) Whether the use will impose additional costs on the public if it is necessary for the public to take the property in the future.

600.04. **Recording**. Interim use permits are temporary in nature and are not required to be recorded. The Review Authority may elect to record an interim use permit if it determines the anticipated term of the permit makes it reasonable to put future owners of the property on notice of the permit.

600.05. **Expiration and Revocation**. An interim use permit shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Review Authority may revoke an interim use permit it issued if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

## **Section 605 – Variances**

605.01. **Variance Requests.** Requests for a variance from the strict application of the requirement of this Chapter shall comply with this Section.

605.02. **Authority.** The Review Authority, serving as the Board of Appeals and Adjustments, may grant a variance from the provisions of this Chapter in order to promote the effective and reasonable application and enforcement of this Chapter. A variance is a modification or variation of the provisions of this Chapter as applied to a specific property. The Review Authority may not grant a variance for any use that is not allowed by this Chapter for property in the zoning district in which the property is located. The Review Authority may grant a variance for the temporary use of a one family dwelling as a two family dwelling and may grant a variance for an earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14 when such construction would be in harmony with this Chapter.

605.03. **Procedure.** An application for a variance shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with the designated type of review.

605.04. **Criteria.** The following criteria shall be considered when reviewing and acting on a variance request.

- (a) The strict enforcement of this Chapter would cause practical difficulties because of circumstances unique to the individual property under consideration. “Practical difficulties” as used in connection with the granting of a variance means the property owner proposes to use the property in a reasonable manner not permitted by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, the variance is in harmony with the general purposes and intent of the Chapter, and the variance, if granted, will not alter the essential character of the Town. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction when in harmony with this Chapter.
- (b) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of the property have had no control.
- (c) Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Chapter.
- (d) The special conditions or circumstances do not result from the actions of the applicant.

- (e) Granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to others of other lands, structures, or buildings in the same district.
- (f) The variance shall not allow any use that is not permitted under the Chapter for a property in the district where the affected applicant's land is located.

605.05. **Recording.** The Review Authority will record, at the owners' expense, the variances it issues.

605.06 **Expiration and Revocation.** A variance shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Review Authority may revoke a variance if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the variance have been violated.

## **Section 610 – Text Amendments and Rezoning**

610.01. **Amendments**. An amendment to the text of this Chapter or of the land use map, including requests to rezone property, may only occur as provided in this Section. The various types of amendments to the text of this Chapter or of the Zoning Map are referred to collectively in this Section as an amendment.

610.02. **Who May Initiate**. An amendment may be initiated by any Review Authority or by application of an affected property owner. An amendment initiated by a Review Authority shall be by resolution submitted to the Town Clerk. The Review Authority authorized to make the final decision on a proposed amendment shall not take final action until it has been processed as provided in Subsection 590.02 and the Recommending Review Authority has provided its recommendation, or until at least 60 days after the proposed amendment was submitted to the Recommending Review Authority.

610.03. **Procedure**. An application for a text amendment or rezone property shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with the designated type of review. If a proposed amendment is not limited to a particular zoning district so as to identify a particular Review Authority, it shall be subject to a Type 2 review procedure.

610.04. **Formalities and Recording**. Approved amendments shall be forwarded to the Town Clerk, shall be subject to the ordinance formalities applicable to towns, and shall be recorded.

## **Section 615 – Appeals**

615.01. **Appeals**. Zoning decisions may only be appealed as provided in this Section.

615.02. **Appealable Decisions**. Only alleged errors in an order, requirement, decision, or determination made by staff in the enforcement of this Chapter are appealable to the Review Authority, which serves as the Board of Appeals and Adjustments for the purpose of deciding appeals from an alleged error in any order, requirement, decision, or determination made by an administrative officer of the Review Authority regarding a particular request on which it is the final decision-making authority. To the extent an appeal does not clearly relate to a particular zoning request for which there is an identified Review Authority, the Town Board shall serve as the Board of Appeals and Adjustments to decide the appeal. The decisions of a Review Authority on matters that it is the final decision maker are final and are not appealable to the Board of Appeals and Adjustments. Recommendations made by a Recommending Review Authority are not final decisions and are not appealable to the Board of Appeals and Adjustments.

615.03. **Notice of Appeal**. In order to bring an appeal, a person shall file a written notice of appeal with the Town Clerk, or the City Clerk if the City Council is the Review Authority, within 20 days of the date of the order or decision being appealed together with the required fee. The notice of appeal must, at a minimum, contain all of the following information:

- (a) The name, mailing address, and phone number of the person making the appeal;
- (b) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within 1,320 feet of the property to which the appeal relates;
- (c) Describe the specific order or decision being appealed, the date of the order or decision, and identify the person who issued the order or made the decision;
- (d) A detailed explanation of the grounds for the appeal; and
- (e) Identify the specific relief being sought by the appeal.

615.04. **Procedure**. Notices of appeal shall be submitted and processed in accordance with this Subsection.

Subdivision 1. **Submitting the Notice**. The Clerk shall review the notice of appeal to determine if it contains all the required information and is otherwise complete. If a notice of appeal is not complete, the order or decision to which it relates is not appealable, or if it was not filed in a timely manner, the Clerk shall reject the notice of appeal. The Clerk shall provide a written notice of the rejection to the person that filed the appeal. The Clerk may seek legal assistance as needed to make a determination as to whether a notice of appeal is complete, proper, and filed in a timely manner. The Clerk shall forward complete, proper, and timely



notices of appeals to the Board of Appeals and Adjustments to conduct a hearing. The Clerk shall also provide a copy of the notice of appeal to the Joint Planning Board.

Subd. 2. Notice. At least 10 days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to the person bringing the appeal. The notice shall state the time, place, and purpose of the hearing. In scheduling the hearing, the Board of Appeals and Adjustments shall allow a reasonable time, not to exceed 45 days, for the Joint Planning Board to review and report on the notice of appeal.

Subd. 3. Joint Planning Board. The Joint Planning Board may review and provide a report to the Board of Appeals and Adjustments on a notice of appeal. The Joint Planning Board is not authorized to conduct a hearing on the notice of appeal. If the Joint Planning Board develops a report it shall provide it to the Board of Appeals and Adjustments prior to the scheduled hearing.

Subd. 4. Board of Appeals and Adjustments. The Board of Appeals and Adjustments shall conduct a public hearing on the notice of appeal. The appellant, or its authorized agent, is expected to attend the hearing to explain the appeal and to answer the Board of Appeals and Adjustments' questions. The Board of Appeals and Adjustments shall make the final decision regarding the matter being appealed. The Board of Appeals and Adjustments may reverse or affirm, wholly or partly, or modify the order or decision being appealed, and issue such orders, requirements, decisions, permits, or determinations, or provide such other relief as it deems appropriate. The Board of Appeals and Adjustments shall issue its decision in a written order which contains its findings. It shall provide a copy of its order to the appellant within 10 days of its issuance.

615.05. **Judicial Review**. Appeals from the final decisions of a Review Authority, including when acting in its capacity as the Board of Appeals and Adjustments, may be brought to district court as provided in Minnesota Statutes, section 462.361, provided such request for review is filed with the district court and properly served on the Review Authority and the Town, if it is not the Review Authority, within 30 days of the date of the decision or order being appealed.

## **Section 620 – Nonconforming Uses and Substandard Lots**

620.01. **Intent.** Within the zoning districts established by this Chapter or amendments that may later be adopted, there may exist lots, structures, and uses of land and structures which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or future amendments. It is the intent of this Chapter to permit the lawfully established nonconformities to continue until they are removed, but not to encourage their survival. Notwithstanding the following restrictions on nonconforming uses, this Chapter expressly allows the expansion of existing uses within the Legacy Commercial District (C-1) within the limitations set out in the Section discussing the C-1 District.

### **620.02. Nonconforming Uses and Structures.**

Subdivision 1. **Allowed to Continue.** Any use or structure in existence prior to the date of enactment of this Chapter which does not conform with the use restrictions of this Chapter, or any use or structure that was subsequently rendered nonconforming by an amendment to this Chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, at the size and in the manner of operation existing upon such date, subject to the restrictions in this Section.

Subd. 2. **Expansions.** A nonconforming use or structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record except as expressly allowed in this Section. A prohibited expansion, enlargement, or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume and/or area dimensions of the nonconforming use. The Town Board may allow an expansion or extension of a nonconforming structure without a variance if the expansion or extension does not increase the nonconforming aspect of the structure. To the extent the expansion or enlargement of a nonconforming principal or accessory structure is allowed by this Section, no such expansion or enlargement may occur except upon issuance of the appropriate permits and provided that the use of the property conforms to the zoning district regulations, that the expansion or enlargement meets current zoning district regulations, and no other nonconformities are created. No other expansions of nonconforming uses or structures shall be allowed except as expressly provided in this Chapter or upon adoption of an ordinance by the Town Board. A request to expand an existing nonconforming use or structure must be submitted to the Town in writing that explains in detail the proposed expansion and identified the potential impacts of the expansion. The Town Board shall, in its sole discretion, determine whether to adopt such an ordinance and, if adopted, which conditions it shall place on the allowed expansion. Because an ordinance to allow an expansion of an existing lawful nonconforming use does not constitute a zoning ordinance or an amendment to this Chapter, the Town Board can process and act on the request and the ordinance, if one is adopted, without needing to process the request as an amendment to this Chapter. The Town Board shall seek input on the request from the Joint Planning Board and may hold a hearing on the request or request the Joint Planning Board to hold a hearing before making its recommendation.

Subd. 3. Maintenance. Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this Section prevents the placing of a structure into a safe condition after it has been declared unsafe by the Town.

Subd. 4. Alterations. Alterations may be made to a structure containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the structure. Such alterations must be approved by the Town.

Subd. 5. Burden. The burden of establishing that a nonconforming use or structure lawfully exists under this Chapter shall, in all cases, be on property owners and not the Town.

Subd. 6. Damage to Nonconforming Structures. Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of 50% or less of its estimated market value as indicated in the assessor's records at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50% of the estimated market value as indicated in the assessor's records at the time of damage and no zoning and land use permit has been applied for within 180 days of when the property was damaged. If a permit is applied for within 180 days, the Town may impose reasonable conditions upon any such zoning and land use permit it may issue in order to mitigate any newly created impact on adjacent property.

Subd. 7. Replacing Nonconforming Uses. When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Chapter and it shall not thereafter be changed to any nonconforming use or structure.

Subd. 8. Discontinued Uses. If the nonconforming use of property or a structure is discontinued for a period of 12 months, the subsequent use of the property or the structure shall be in conformity with the provisions of this Chapter.

Subd. 9. Replaced Use or Structure. When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Chapter and it shall not thereafter be changed to any nonconforming use or structure.

Subd. 10. Public Nuisances. Nonconforming uses or structures which are declared by the Town to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.

Subd. 11. Nonconformities in Floodplains. No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National

Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

## **Section 625 – Substandard Lots**

### **625.01. Substandard Lots of Record.**

Subdivision 1. Buildable. All lots of record, existing as of the date of this Chapter and all prior zoning and land use ordinances in the Town, that do not meet the minimum lot area and lot width requirements, may be allowed as building sites without a variance from lot size or width requirements provided that it satisfies all of the following:

- (a) The use is permitted in the particular zoning district;
- (b) The lot was created compliant with official controls in effect at the time;
- (c) The setback requirements of this Chapter are met; and
- (d) The applicable ISTS/SSTS (Individual Sewage Treatment System/Subsurface Sewage Treatment System) regulations are met.

Subd. 2. Shoreland Lots. Nonconforming lots within a designated shoreland shall be regulated in accordance with Minnesota Statutes, section 462.357, subdivision 1e, paragraphs (d) through (j) as applicable.

## **Section 630 – Subdivision Regulations**

630.01. **Purpose.** Each new subdivision or plat of land becomes a permanent and integral part of the physical structure of the Town, the design and the development of plats subdividing property establishes a pattern for the future development of the entire community and adherence to this pattern by future subdividers becomes mandatory. Planning of subdivisions in a piecemeal manner, without proper consideration being given to the overall development of Town would lead to a chaotic patchwork of community development, making future improvements difficult, if not impossible and certainly very costly. The lack of regulations and mismanagement of subdivisions and platting of land would have a disastrous effect upon the distribution of population and would actually create areas contrasting so greatly in their environment as to provide for future so-called blighted areas from the start. Additionally, certain restrictions need to be imposed on the subdivision of land located within the Urban Services District (U-1) in order to plan for the orderly growth of the City and the extension of City services. To provide for the orderly and equitable development of both the Town and City, all subdivisions and plats of land within the limits of the Town shall, in all respects, comply with the regulations set forth in this Section.

### **630.02. Compliance and Administration.**

Subdivision 1. **Required.** Except as hereinafter provided, no land shall be subdivided, platted, rearranged, or combined in any way which is not in conformity with these subdivision regulations. The conveyance or recording of any such land that has been subdivided, platted, rearranged, or combined shall not be allowed unless all required approvals have been obtained as provided in this Section. The rules and regulations governing plats and subdivision of land contained in this Section shall apply within the boundaries of the Town. Every division of land for the purpose of lease or sale into two or more lots, parcels or tracts within the Town or any combination of two or more lots shall proceed in compliance with this Section.

Subd. 2. **Exceptions.** The requirements of this Section shall not apply to the following:

- (a) A cemetery or burial plot while used for that purpose; or
- (b) Conveyances expressly exempt under Minnesota Statutes, section 462.358, subdivision 4b(b).

Subd. 3. **Administration.** This Section shall be administered by the Town and requests to subdivide, combine, or plat land shall be processed and acted on in accordance with this Section, the review procedures chart in Subsection 590.02, and the procedures associated with the designated type of review.

### **630.03. General Restrictions.**

Subdivision 1. **Protection of Natural Resources.** A request to plat land may be denied if due regard is not shown for the preservation of all natural features such as large trees,

watercourses, scenic points, historical spots and similar community assets which, if preserved, will add attractiveness, stability and value to the property.

Subd. 2. Land Suitability for Subdivision. The Review Authority must find each lot created through subdivision suitable for land subdivision in its normal state for the proposed use with minimal alteration. Suitability analysis shall consider flooding, existence of wetlands, inadequate drainage, steep slopes, rock formations or other features with severe limitations for development, severe erosion potential, steep topography, important fish and wildlife habitat, near-shore aquatic conditions unsuitable for water-based recreation, presence of significant historic sites or any other feature of the natural land likely to be harmful to the safety, welfare or general health of future residents, or land which could not be adequately served by utilities or other public facilities or public access; such land shall not be subdivided unless adequate methods are provided for overcoming such conditions; or the land is platted as outlots.

Subd. 3. Flood Prone Areas. No plan shall be approved for a subdivision which is subject to periodic flooding, or which contains poor drainage facilities and which would make adequate drainage of the roads, streets, and lots not reasonably possible. However, if the subdivider agrees to make improvements which will, in the opinion of the Review Authority's engineer, make the area safe for residential occupancy, and provide adequate road, street, and lot drainage, the Review Authority may approve the requested subdivision. The approval of a subdivision does not imply that the land so divided will be free from flooding or flood damages. This Section shall not create liability on the part of the Review Authority or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decisions lawfully made hereunder.

Subd. 4. Approvals Necessary for Acceptance and Recording of Subdivision. Before any plat or subdivision of land shall be recorded or be of any validity, it shall be approved by the Review Authority as having fulfilled the requirements of this Chapter. No plat or subdivision shall be entitled to be recorded in the Stearns County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Chapter.

Subd. 5. Restrictions on Filing and Recording Conveyances. No conveyance of land to which these regulations apply shall be filed or recorded with the County Recorder's Office if the land is described by metes and bounds, by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat made after the regulations became effective. The foregoing provision does not apply to a conveyance if the land described:

- (a) Was a separate parcel of record prior to the effective date of adoption of subdivision regulations within the Town;
- (b) Was the subject of a written agreement to convey that which was entered into prior to such date;
- (c) Was a separate parcel of not less than two and one-half acres in area and 150 feet in width on January 1, 1966;

- (d) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980;
- (e) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or
- (f) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

Subd. 6. Certificate of Compliance. To the extent a parcel may be conveyed by metes and bounds under one of the exceptions, such transfer shall require a certificate of compliance duly executed by the Town Clerk after approval of the Town Board prior to recording of the land transfer in the County Recorder's Office. The Town Board may refuse to take over tracts as streets or roads or to improve, repair, or maintain any tracts which have not been subdivided in accordance with this Section.

Subd. 7. Waivers. In any case in which compliance with the conveyance restrictions in this Subsection will create practical difficulties and failure to comply does not interfere with the purpose of the subdivision regulations, the Town Board may waive such compliance by adoption of a resolution and issuance of a certificate of compliance to that effect allowing the conveyance to be filed or recorded.

Subd. 8. Penalties. It shall be unlawful for an owner or agent of an owner who conveys a lot or parcel in violation of this Subsection. Such person is subject to civil and criminal penalties as provided in this Chapter and Minnesota Statutes, section 462.358, subdivision 4b.

Subd. 9. Building Permits. No building permits shall be issued by the Town for the construction of any building, structure or improvement to the land or to any lot in a subdivision as defined herein, until all requirements of this Section have been fully met. The Town may allow the installation of foundations after the aggregate base course is applied to streets. The Town may allow the placement of structural members following the installation of the first lift of bituminous surfacing providing street signs have been placed. Except otherwise provided by this Section, all electric and gas distribution lines or piping, roadways and other similar improvements shall be constructed only on a street, alley or other public way or easement which is designated on an approved plat, or properly indicated on the Official Map of the Town, or which has otherwise been approved by the Town Board. Upon adoption of an Official Map, no permit for the erection of any building shall be issued unless the building is to be located upon a parcel of land abutting on a street or highway which has been designated upon an approved plat or on the official map or which has been otherwise approved by the Town Board and unless the buildings conform to the established building line. No permit shall be issued for the construction of a building on any lot or parcel conveyed in violation of the provisions of this Section.



Subd. 10. Established Monuments. All federal, state, county and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise location; and it shall be the responsibility of the Developer to insure that these markers are maintained in good condition during construction and development. All section, quarter section, and sixteenth section covers shall be duly described and tied.

Subd. 11. Effect of Subdivision Approval. For one year following preliminary approval and for two years following final approval, unless the subdivider and the Review Authority agree otherwise in writing, no amendment to an official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to these regulations, the Review Authority may extend the period by agreement with the subdivider subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned staged development, the Review Authority may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

Subd. 12. Legal Descriptions. The applicant shall be responsible for providing, at its own cost, all legal descriptions and surveys required for the particular approval being sought under this Section. The applicant is responsible the accuracy of the legal descriptions and for making any corrections, or providing any additional information, that may be required by the County to record the subdivision or plat.

Subd. 13. Review Expenses. All of the survey, engineering, legal, administrative and planning expense incurred by the Town and the Review Authority as a result of the plat review and inspection shall be paid by the subdivider prior to acceptance of the final plat. Any expense involving the Town Engineer in performing any work ordered by the Review Authority or by the Subdivider shall be made a part of the construction expense and paid for from the funds deposited by the Subdivider. Administrative expenses shall include any and all expenses incurred by the Review Authority in the review and inspection of the plat including, but not limited to mileage, compensation for time spent by Review Authority officials and any costs in excess of the public hearing fee related to the conducting of a public hearing or hearings.

Subd. 14. Resubdivisions. Whenever an existing plat is resubdivided, the subdivider shall comply with all of the requirements of this Chapter deemed applicable by the Review Authority.

Subd. 15. Zoning. Prior to the approval of the preliminary plat, the subdivider shall proceed to rezone any or all plats to the proper zoning classification. Rezoning shall require a formal petition to be submitted by the owner in accordance with the applicable provisions of this Chapter.

630.04. **Subdivision Methods and Lot Combinations.** The methods of subdividing and combining land are as follows:

- (a) Lot line adjustments regulated under Subsection 630.06;
- (b) Lot combination regulated under Subsection 630.07;
- (c) Minor subdivision regulated under Subsection 630.08; and
- (d) Major subdivision regulated under Subsection 630.09.

630.05. **Review Criteria.** The Review Authority shall consider the following factors, together with any additional criteria established for the particular approval being requested, when reviewing a requested subdivision under this Section.

- (a) The proposed subdivision of land will not result in more lots than allowed under the particular method of subdivision;
- (b) All necessary utility and drainage requirements are fulfilled and easements are provided for;
- (c) All lots to be created by the subdivision conform to lot area and width requirements;
- (d) All Town zoning requirements are met;
- (e) Lots created have direct access onto a public street;
- (f) Unless waived by the Review Authority, the property has not been divided through the provisions of this Section within the previous five years;
- (g) The subdivision meets all design and dedication standards as specified elsewhere in this Chapter;
- (h) All basic improvements required by this Chapter are installed in accordance with Town standards; and
- (i) No subdivision of any parcel of land or portion thereof shall result in buildings and/or uses becoming nonconforming.

630.06. **Lot Line Adjustments.**

Subdivision 1. **Lot Line Adjustment.** The division of land made for the purpose of adjusting the boundary lines of parcels of land to an abutting lot or to otherwise exchange property between adjacent lots which does not create any new lots, tracts, parcels or sites; nor does a boundary adjustment create any lot, tract, parcel or site which contains insufficient area

and dimensions to meet minimum requirements for width, lot size, and area for building as required by this Chapter. The newly acquired land must be combined on the same deed for recording purposes as the remainder of the owner's property.

Subd. 2. Procedure. An application for a lot line adjustment shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with the designated type of review.

Subd. 3. Submittals. In addition to a completed application form, a request for a lot line adjustment shall include the following submittals:

- (a) Legal descriptions of the original parcels and of the resulting parcels; and
- (b) A certificate of survey showing the original parcels and the resulting parcels, including the lot dimensions.

Subd. 4. Recording. The Town will record, at the owners' expense, the lot line adjustment approval.

#### 630.07. **Lot Combination**.

Subdivision 1. Lot Combination. The combination of two or more lots into a single lot shall require approval as provided in this Subsection.

Subd. 2. Procedure. An application for a lot combination shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with the designated type of review.

Subd. 3. Submittals. In addition to a completed application form, a request for a lot combination shall include the following submittals:

- (a) Legal descriptions of the original parcels and of the resulting parcel; and
- (b) A certificate of survey showing the original parcels and the resulting parcel, including the resulting lot dimensions.

Subd. 4. Recording. The Town will record, at the owners' expense, the lot combination approval.

#### 630.08. **Minor Subdivision**.

Subdivision 1. Minor Subdivision. A minor subdivision is any subdivision containing three or less lots fronting on an existing public street, or approved private driveway, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions of this Chapter.

Subd. 2. Sketch Plan. The Town recognizes the fact that a preliminary study and evaluation may save the subdivider considerable expense should the property in question be undevelopable or the subdivision as proposed be unfeasible. Before submitting an application the subdivider may submit a sketch plan showing the general layout as proposed for the subdivision. This sketch plan shall be submitted to the Town Clerk who in turn shall submit the sketch to the Recommending Review Authority and the Review Authority for study to determine whether such a plan is feasible and in compliance with the general rules and regulations of the Town. The subdivider is not required to submit a sketch plan. If a sketch plan is submitted, the report and determinations of the Recommending Review Authority and the Review Authority of a sketch plan are not be binding on the Review Authority and they shall not affect subsequent consideration of the preliminary or final plats. This service is offered to subdividers in an effort to acquaint them with the fundamental principles of the platting property in the Town.

Subd. 3. Procedure. Requests for a minor subdivision shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures applicable to subdivisions. Unless the Review Authority directs otherwise, the preliminary and final approvals for a minor subdivision may be granted at the same time.

Subd. 4. Submittals. In addition to a completed application form, a request for a minor subdivision shall include the following submittals:

- (a) Legal description of the original parcel and of the resulting lots;
- (b) A certificate of survey prepared by a licensed land surveyor showing the boundaries of the newly created lots. All improvements on the property should also be shown on the boundary survey;
- (c) Drainage, grading, and erosion control plans;
- (d) Wetland delineation report and map;
- (e) Topographic data at ten (10) foot contour intervals;
- (f) Buildable area on the proposed lots;
- (g) Driveway access points; and
- (h) Other information as may reasonably be required by the Review Authority.

Subd. 5. Recording. The Town will record, at the owners' expense, the minor subdivision approval.

**630.09. Major Subdivisions.**

Subdivision 1. Major Subdivision. All subdivisions not classified as a lot line adjustment or minor subdivision including, but not limited to, a subdivision of four or more lots, or any size subdivision requiring any new street or extension of an existing street, shall constitute a major subdivision. All major subdivision shall be platted in accordance with Minnesota Statutes, chapter 505.

Subd. 2. Platting Procedure. A request for a major subdivision shall be submitted and processed in accordance with the following Subsections. The following steps are involved in seeking approval for the platting of a major subdivision:

- (a) Concept plan;
- (b) Preliminary plat; and
- (c) Final plat.

**630.10. Concept Plan – Pre-Application Meeting.**

Subdivision 1. Pre-Application Meeting. Prior to the preparation of a preliminary plat an applicant is required to present a concept plan to the Review Authority for review and comment. Review of the concept plan provides the Review Authority an opportunity to determine whether the proposed subdivision is premature, based on criteria established in this Section. An applicant shall prepare and submit for the concept plan review five large-scale copies and five reduced scale (11" x 17") copies of a concept plan of the proposed subdivision to include future phases and an estimated timetable for development. One copy of the concept plan shall also be submitted electronically.

Subd. 2. Not Formal Filing. Submission of a concept plan shall not constitute formal filing of a plat with the Review Authority. Instead, it provides the applicant an opportunity to discuss the proposed plat with the Review Authority and its staff to receive input and direction. The Review Authority may refer the concept plan to the Recommending Review Authority for review and comment as part of the informal review process. Such referral shall not constitute formal filing of a plan with the Review Authority, but rather shall allow for a non-binding review of the proposal to ensure compliance with design standards and to identify possible modifications necessary to secure approval. Any advice, comments, or recommendations for modification made by the Recommending Review Authority and the Review Authority are advisory only and shall not constitute approval or a commitment to approve.

Subd. 3. Compliance. As far as may be practical on the basis of a concept plan, the Review Authority will informally advise the developer as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this Chapter and will discuss possible plan modifications necessary to secure conformance.

Subd. 4. Required Contents. All concept plans required by this Subsection shall contain, at a minimum, the following information:

- (a) Plat boundaries;
- (b) North arrow and scale of plan (engineering scale only – one inch equals 100 feet);
- (c) Street names and the layout on adjacent to the proposed plat;
- (d) Designation of land use, current and proposed zoning and current land cover (cultivated areas, paved areas, and the like), all buildings and structures on the land and all encumbrances or covenants;
- (e) Significant topographical or physical features;
- (f) General lot locations and layout;
- (g) Proposed playgrounds and parks;
- (h) Potential ponding sites;
- (i) Soil type locations and identification of soil type characteristic such as hydric soils and depth to bedrock as determined by the Natural Resource Conservation Service (NCRS);
- (j) Preliminary evaluation by the applicant that the subdivision is not classified as premature based upon criteria established in this Chapter;
- (k) Additional written data shall include approximate number of lots, typical lot width and depth, and any proposed zoning changes; and
- (l) In addition to the required paper copy submittals, the Review Authority may require that the information also be submitted in an electronic format designated by the Review Authority.

**630.11. Preliminary Plat Process.**

Subdivision 1. Purpose. The preliminary plat is intended to illustrate proposed subdivision of properties within the Town. Such approval shall be required for all subdivisions of land not specifically exempted within this Section.

Subd. 2. Application. Following the pre-application meeting and following review of the concept plan, the applicant shall prepare a request for approval of the preliminary plat for the subdivision and submit it to the Town Clerk. The Town Clerk shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Town Clerk shall provide the

applicant written notice of what information is needed in order to make the application complete within 15 business days of the Town's receipt of the application.

Subd. 3. Required Submittals. An application for preliminary plat approval shall be accompanied by five large-scale and five reduced scale (not less than 11"x17") copies of a preliminary plat and supportive information in conformity with the requirements of this Section. One copy of the preliminary plat shall also be submitted electronically. If, in the opinion of the Town Clerk, reduced scale drawings (11"x17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. The applicant shall also supply proof of title and the legal description of the property for which the subdivision is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal or equitable ownership interest and as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested subdivision. The applicant shall also submit any necessary applications for variances from the provisions of this Section. The Town Clerk shall forward a complete application to the Recommending Review Authority to conduct a hearing.

Subd. 4. Technical Reports. The Town Clerk shall instruct the staff as appropriate to prepare technical reports and provide general assistance in preparing a recommendation on the action to the Review Authority. This may include the Town Engineer, Building Official, Town Attorney, and public or private utilities, among others. The presence of any of the above, which may be considered an employee of the Town, will not preclude the Review Authority from obtaining a recommendation from an independent contractor performing similar duties and responsibilities if, in the opinion of the Review Authority, the independent contractor possesses a set of skills and abilities required for a fair evaluation of the request.

Subd. 5. Additional Review. The Town Clerk shall also refer copies of the plat map to the following individuals or bodies:

- (a) Town Engineer;
- (b) Town Attorney;
- (c) School District, if applicable;
- (d) County Engineer if the proposed subdivision includes land abutting a County or County State-Aid Highway;
- (e) State Commissioner of Natural Resources if the proposed subdivision adjoins a public body of water;
- (f) The Watershed District Board, if applicable; and
- (g) Review Authority.

Subd. 6. Additional Information. The Recommending Review Authority, the Review Authority, and their staff shall have the authority to request additional information from the applicant concerning the proposed subdivision and its operational factors or impact, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors or impacts, when said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Chapter. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

Subd. 7. Review Procedure. An application for preliminary plat approval shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with subdivisions. The entity designated as the Review Authority shall make the final decision on both the application for preliminary plat approval and on the application for final plat approval.

Subd. 8. Findings for Preliminary Plat. The Recommending Review Authority and the Review Authority shall consider the following factors before recommending or granting preliminary plat approval.

- (a) The proposed preliminary plat conforms to the requirements of this Chapter and the applicable zoning district regulations.
- (b) The proposed subdivision is consistent with the Town's official controls and any other adopted land use studies and is compatible with the platting or approved preliminary plat on adjoining lands.
- (c) The physical characteristics of the site, including but not limited to topography, vegetation, wetlands, ground water elevation, susceptibility to erosion and siltation, susceptibility to flooding, water storage and retention, are such that the site is suitable for the type of development or use contemplated.
- (d) The design or improvement of the proposed subdivision complies with applicable plans of the County and the state of Minnesota.
- (e) The design or improvement of the proposed subdivision is not likely to cause environmental damage or health problems.
- (f) The completion of the proposed development of the subdivision can be achieved in a timely manner so as not to cause an undue economic burden upon the Town for maintenance, repayment of bonds or similar burden.
- (g) That permits applicable to the site/project as required by local, state and federal law have been applied for and/or have been approved. The applicant is required to prove compliance with all local, state and federal law. The Town and/or its assigns may determine if whether an application for approval is sufficient.



Subd. 9. Notice of Decision. The Town Clerk shall notify the applicant of the Review Authority's decision together with the conditions and requirements that must be met in order to submit the plat for final approval. The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat.

Subd. 10. Amending Preliminary Plat. Should the applicant desire to amend a preliminary plat as approved, an amended preliminary plat may be submitted. The Review Authority may require the applicant to follow the same procedure as a new preliminary plat. No public hearing will be required unless the amendment, in the opinion of the Review Authority, is of such scope as to constitute a new preliminary plat. A filing fee as established by the Town Board shall be charged for processing the amendment.

Subd. 11. Denial; Effect on Resubmission. Preliminary plats that have been denied shall not be reintroduced for a period of one year unless substantial changes have been made. The Review Authority may waive this limitation by a simple majority vote.

**630.12. Preliminary Plat Data Requirements**. An applicant shall prepare and submit a preliminary plat, together with any necessary supplementary information as may be required by the Review Authority, that complies with the requirements of this Subsection. Upon specific request, the Town Clerk may exempt an applicant from the submission of data which is not considered relevant to the application.

Subdivision 1. Contents. In addition to any information required by Minnesota Statutes, chapter 505, the preliminary plat shall comply with and contain all of the following:

- (a) The proposed name of the subdivision; names shall not duplicate or be alike in pronunciation to the name of any plat theretofore recorded in Stearns County;
- (b) Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property;
- (c) Name, address, phone number, and where applicable license number of the record owner(s), any agent having control of the land, the applicant, land surveyor, engineer and designer of the plan;
- (d) Graphic scale of one inch to 100 feet, except as specifically approved by the Town Clerk;
- (e) North point and key map of the area, showing well-known geographical points for orientation including streets within a one-half mile radius;
- (f) Date of preparation;

- (g) The legal description of the land contained within the subdivision including the total acreage of the proposed subdivision. The legal description shall also be provided in an electronic form at the time of the application;
- (h) An indication as to which lands are registered torrens property or abstract property. If land is registered property, a registered land survey shall be required;
- (i) A list of any liens or encumbrances;
- (j) Elevation benchmarks used for the topographic survey and datum on which they are based;
- (k) Reference to the coordinate system used for the survey; and
- (l) Results of site evaluation, including percolation tests and soil borings.

Subd. 2. Existing Conditions. The following are a list of existing conditions which must be shown:

- (a) Boundary lines to include bearings, distance, curve data, and total acreage of proposed plat, clearly indicated;
- (b) Existing zoning classifications for land in and abutting the subdivision;
- (c) Total area of the proposed plat;
- (d) Location, right-of-way width, and names of existing or platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements and section, corporate and school district lines within the plan, to a distance of 150 feet beyond the plat;
- (e) Location size, and elevations of existing sewers, water mains, culverts or other underground facilities within the preliminary plat area and to a distance of 150 feet beyond. Such data as top grades and locations of catch basins, manholes, elevations, invert elevations, hydrants and the street pavement width and type also shall be shown;
- (f) Boundary lines of adjoining un-subdivided or subdivided land, within 150 feet of the plat, identified by name and ownership, including all contiguous land owned or controlled by the applicant;
- (g) Topographic data, including contours at vertical intervals of not more than one foot shown on a contour/topographic map. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features also shall be shown. U.S.G.S. datum shall be used for all topographic mapping;

- (h) Base flood elevations, the regulatory flood protection, and boundaries of floodway and flood fringe areas, if known, taking into consideration the Flood Insurance Study and Flood Insurance Rate Map.
- (i) Geotechnical data prepared by a qualified soils engineer showing surface and subsurface soils and groundwater elevations in sufficient detail to show the site to be suitable for the development proposed;
- (j) A vicinity map at least 4" x 4" in size on the full size plans showing the relationship of the proposed subdivision to adjacent properties, roads, rights-of-way, and other property and subdivisions within 350 feet of the proposed subdivision, and the relation of the plat to the surrounding zoning districts;
- (k) All existing survey monuments that have been found; and
- (l) Areas in the plat which have been designated as shoreland, delineated wetlands and/or floodplains by the Department of Natural Resources, including the high water level of all wetlands.

Subd. 3. Proposed Design Features. The following are a list of proposed design features:

- (a) Layout of proposed streets showing the right-of-way widths, centerline gradients, roadway widths, typical cross-sections, and proposed names of streets in conformance with Town street identification policies, if applicable. The name of any street heretofore used in the Town or its vicinity shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used;
- (b) Locations and widths of proposed alleys and pedestrian ways;
- (c) Location, dimension, and purpose of all easements;
- (d) Layout, numbers, lot areas, and preliminary dimensions of lots, blocks, and outlots. The total number of proposed lots, their minimum, maximum, and average size in square footage;
- (e) Minimum front and side street building setback lines;
- (f) When lots are located on a curve, the width of the lot at the building setback line;
- (g) Building pads intended for construction, including the type of structure and low floor, low opening, and garage floor elevations and driveway slope percentages;
- (h) Areas, other than streets, alleys, bikeways, pedestrian ways, and utility easements, intended to be dedicated or reserved for public use, including the size of such an area or areas in acres;

- (i) Preliminary grading plan prepared and signed by a licensed engineer with minimum one foot contours which shall include the proposed grading and drainage of the site: prior to, during and post-construction. The preliminary grading plan shall include, but not be limited to, the illustration of provisions for erosion control, hydrology calculations and drainage. Also to be stipulated are the garage floor, first floor, lowest opening and lowest floor elevations of all structures;
- (j) The location, size and proposed improvements for proposed parks, playgrounds and public open spaces; churches or school sites or other special uses of land to be considered for dedication to public use or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation;
- (k) Proposed pedestrian ways, sidewalks, trails, drainage easements, and utility easements;
- (l) Drainage calculations for two, 10, and 100-year storm events and 10-day snow melt events in a HydroCad format;
- (m) Proposed plan for surface water management, ponding, drainage, and flood control, including normal water level and high water level of all ponds and watercourses;
- (n) Emergency overflow elevations and overland overflow routes;
- (o) In addition to the paper copy submittals, all information shall be submitted in electronic format to allow the Town to review it electronically. All drawings shall be provided in AutoCAD or MicroStation format and a scalable PDF format; and
- (p) The items listed in this Subsection shall be in conformance with all other applicable sections of this Chapter and the Town's Zoning Code.

Subd. 4. Supplementary Information. The following are a list of items which the Applicant shall consider or the Review Authority may require be provided:

- (a) A build-out plan as defined by the Review Authority and/or its assigns;
- (b) Proposed protective covenants or private restrictions;
- (c) Proposed phasing/staging plan for any project involving more than one construction season which sets forth the chronological order of construction and relates to the proposed uses and structures to the construction of various service facilities and gives estimated completion dates;

- (d) A listing of all required federal, state, and local permits and status of all such applications. This includes a wetland permit if the proposed plat indicates any impacts to a wetland area;
- (e) A plat overlay on an aerial photo, illustrating the relationship of the proposed subdivision to the surrounding area;
- (f) An analysis prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density and spacing. A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted may also be required;
- (g) A statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population. The Review Authority may require the applicant to have formal traffic or other studies performed to the Review Authority's satisfaction which show the effect of the proposed development on traffic, fire hazards, congestion, or other matters of public concern;
- (h) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the Applicant;
- (i) A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system. Such plans are to be in accordance with the technical standards and specifications of the Soil Conservation Service, as provided by Stearns County Soil and Water Conservation District Office;
- (j) An environmental review shall be submitted if the Review Authority, Review Authority's consultants, or other groups or agencies determine that one is required by law or if it is determined that a discretionary review is appropriate;
- (k) Applications, statements, and supporting documentation and plans for rezoning, variances, or conditional use permit approvals being sought for the subdivision; and
- (l) Such other applicable information as may be required by the Review Authority.

630.13. **Final Plat Process.**

Subdivision 1. Purpose. A final plat is a drawing representing the proposed subdivision of land within the Town and serves as the document for recording purposes, as required by the County Recorder's Office. Once a preliminary plat has been approved by the Town Board, the developer may submit a request for final plat approval. In certain cases the Town may allow a final plat to be submitted concurrent with a request for preliminary plat approval.

Subd. 2. Application. After the preliminary plat has been approved, a final plat shall be submitted for review as set forth in the following Subsections, which follow. The applicant shall prepare a request for approval of the final plat for the subdivision, as provided within this Section, and submit it to the Town Clerk. The Town Clerk shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Town Clerk shall provide the applicant written notice of what information is needed in order to make the application complete within 15 business days of the Town's receipt of the application. The Town Clerk shall forward a complete application to the Recommending Review Authority.

Subd. 3. Required Submittals. An application for final plat approval shall be accompanied by three large-scale and five reduced scale (not less than 11"x17") copies of a preliminary plat and supportive information in conformity with the requirements of this Chapter. If, in the opinion of the Town Clerk, reduced scale drawings (11"x17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. The final plat shall incorporate all changes, modifications and revisions required by the Review Authority, otherwise, it shall strictly conform to the approved preliminary plat. All final plats shall comply with the provisions of Minnesota Statutes, the requirements contained in this chapter, and all other applicable law. An applicant shall submit with the final plat a current Abstract of Title or Registered Property Certificate, along with any unrecorded documents, and a Certificate of Title.

Subd. 4. Review Process. An application for final plat approval shall be submitted and processed in accordance with the review procedures chart in Subsection 590.02 and the procedures associated with the designated type of review. The Recommending Review Authority and the Review Authority shall be the same entities as those who served those roles in the processing of the application for preliminary plat approval.

Subd. 5. Required Findings for Final Plat. The Recommending Review Authority and the Review Authority shall consider the following factors before recommending or granting final plat approval.

- (a) The final plat conforms to the approved preliminary plat and any/all conditions for approval of the preliminary plat.
- (b) All submission requirements have been satisfied.
- (c) The plat conforms to all applicable requirements of this Chapter, subject only to approved exceptions.

Subd. 6. Notice of Decision. The Town Clerk shall notify the applicant of the Review Authority's decision on the final plat together with the reasons for its decision.

Subd. 7. Development Agreement. Prior to approval of a final plat, the applicant shall have executed a development agreement with the Town that is in a form acceptable to the Town Board. The development agreement shall address the installation and maintenance of any required public improvements, the standards to which they shall be built, the payment of any fees, and such other matters as the Town determines are appropriate related to the platting and development of the subdivision. The applicant shall be responsible for the costs the Town incurs to prepare, finalize, and record the development agreement. If the Town is not the Review Authority for the plat, the Review Authority shall be a party to the development agreement and the applicant shall reimburse the Review Authority the costs it incurs related to the development agreement.

Subd. 8. Signing the Plat. Upon receiving an approved final plat in conformance with the requirements of the approvals the Town Chairperson and Town Clerk shall sign the plat, and the applicant, as a condition of approval, shall record the approved and signed final plat with the County Recorder within 180 unless otherwise determined and indicated within the executed development agreement.

Subd. 9. Release of Plat for Recording. The final plat shall not be released by the Town for recording with the County Recorder's office until all of the following have been completed:

- (a) The recording of signatures upon the plat as specified in this Section;
- (b) Execution of the development agreement;
- (c) The submittal of necessary financial guarantees and development fees to the Town;
- (d) Payment of all outstanding costs and fees by the applicant;
- (e) The provision of easements or deed as may be required by the Town for trailways, ponding, parks, utilities, or similar purposes in a form prescribed by the Town Attorney; and
- (f) Final evidence of Title ownership.

Subd. 10. Recording of Final Plat. Upon approval of the final plat, it shall be the responsibility of the applicant to file the plat with the County Recorder's office. The plat shall be recorded within 60 days after the date of final approval by the Review Authority. Failure to record the plat within the required period shall render the approval null and void.

Subd. 11. Evidence of Recording. The applicant shall, within 30 days of recording, furnish the Review Authority with three blue or black line prints and one mylar of the final plat showing evidence of the recording. The applicant shall provide an electronic copy of the approved final plat in a format acceptable to the Review Authority and consistent with the

Stearns County coordinate system. Failure to furnish such copies shall be grounds for refusal to issue building permits for lots within a plat.

Subd. 12. Public Dedications. All dedications of land to the public within a plat for streets, parks, drainage, utilities, or for any other purpose shall be to the Town, regardless of which entity serves as the Review Authority regarding the subdivision. Dedicated areas shall transfer to the City upon annexation in accordance with Minnesota Statutes, chapter 414.

Subd. 13. Continuation of Approval. Upon receiving approval of a final plat for a portion of an approved preliminary plat, a continuation or the recognition of the preliminary plat is not required to maintain its approval. In the event an amendment to this Section is adopted which requires a larger minimum lot size for land not yet platted and recorded, the larger minimum lot size may be required for any additional platting. If the applicant is unable to file a final plat application within the required one year, such person shall file a written request for an extension of the final plat approval with the Town Clerk and receive approval of the Review Authority 30 days prior to the lapse of approval. Said applicant's request shall specify and the Review Authority shall, if approved, determine the length of time for filing and for the preliminary plat to remain in full force and effect.

**630.14. Final Plat Data Requirements.**

Subdivision 1. Final Plat. As required herein, the applicant shall submit a final plat together with any necessary supplementary information that may be required. The final plat, prepared for recording purposes, shall be prepared in accordance with the applicable provisions of Minnesota Statutes and Stearns County regulations, and such final plat or accompanying submittals shall contain the following information:

- (a) Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing plat theretofore recorded in the Town or its vicinity and which shall be subject to Review Authority approval;
- (b) Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision;
- (c) The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments. The applicant shall provide coordinating data on all subdivision documentation in a format approved by the Town Engineer;
- (d) Location of lots, outlots, streets, public highways, alleys, and parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines;



- (e) Lots shall be numbered clearly, blocks are to be numbered, with numbers shown clearly in the center of each block;
- (f) A drawing or listing of total square footage per lot, acreage per block, square footage or acreage of each land use proposed (where applicable) and total acres in the plat;
- (g) The exact locations, widths, and names of all streets to be dedicated;
- (h) The location, purpose, and width of all easements to be dedicated;
- (i) The name, address, and phone number of the surveyor making the plat;
- (j) A scale of the plat to be 1"=100', date, and north arrow;
- (k) A current abstract of title or a registered property certificate along with any unrecorded documents that are subject to review and approval by the Town Board;
- (l) Copies of any protective or restrictive covenants affecting the subdivision or any part thereof;
- (m) A statement dedicating to the public all easements;
- (n) A statement dedicating to the public all streets, alleys, and other public areas not previously dedicated;
- (o) Such other information that shall be required by the Review Authority following final plat approval, including but not limited to the following:
  - (1) A signed development agreement approved by the Review Authority which includes provisions for a financial guarantee of cash escrow or letter of credit, as provided for in this Section;
  - (2) A complete set of construction plans and specifications to construct the required public improvements and to make the subdivision suitable for development, which conform to the Town requirements. The construction plans for the required improvements shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota and shall conform in all respects to the standards of the Town and the applicable ordinances. Such plans together with the quantity of construction items shall be submitted to the Town Engineer for approval;
  - (3) A certified mylar copy of the plat evidencing filing of the plat with the County within 60 days after approval by the Review Authority. No building permits shall be approved for construction of any structure on any

lot in said plat until the Review Authority has received evidence of the plat being recorded by Stearns County;

- (4) Three complete sets of 11" x 17" reproducible as-built construction drawings for any public improvements constructed in the subdivision shall be furnished to the Review Authority and the Town Engineer, within 120 days after the construction is complete and approved by the Review Authority. In addition one digital GIS formatted copy and one scanned copy for imaging shall be submitted to the Town;
  - (5) Upon adoption and filing of a final plat, the Review Authority shall prepare a street address map and distribute it to the applicant, utility companies, police department, ambulance, fire department, post office and County; and
  - (6) A digital disk of the recorded plat consistent with the Stearns County coordinate system in a format specified by the Review Authority and/or the Town Engineer for inclusion in the Town's base map.
- (p) The following information is also required:
- (1) Certification by a registered surveyor in the form required by Minnesota Statutes, section 505.03;
  - (2) Execution by all owners of any interest in the land and holders of a mortgage thereon of the certificates required by Minnesota Statutes, section 505.03, and which certificate shall include a dedication of the utility easements and other public areas in such form as approved by the Town Board; and
  - (3) Space for a certificate of approval and review to be filled in by the signatures of the Town Chairperson and Town Clerk in the following form:

FOR APPROVAL OF THE TOWN OF LE SAUK:

This plat of (name of plat) was approved and accepted by the Town of Le Sauk, Minnesota, at a regular meeting thereof held this \_\_\_\_ day of \_\_\_\_\_.

TOWN BOARD OF LE SAUK, MINNESOTA

By \_\_\_\_\_, Chairperson

By \_\_\_\_\_, Clerk

**630.15. Park Dedication.**

Subdivision 1. Required. All subdivisions which create one or more additional lots (major subdivisions and minor subdivisions) shall either dedicate land to the Town for parks and trails, or pay a park dedication fee in lieu of the required land dedication. For each subdivision the Town shall determine whether land or cash park dedication is the acceptable means to satisfy Town park and recreation needs. Regardless of which entity serves as the Review Authority for a subdivision, the park dedication under this Subsection shall be made to the Town.

Subd. 2. Land Dedication. Park and trail land dedication shall be 5% of the land area of the subdivision, as determined by the Town prior to final approval, and such dedication is in addition to any property dedicated for utilities, stormwater, streets, or other public ways. Land to be dedicated shall be reasonably suitable for its intended use, as determined by the Town, based on factors such as size, shape, topography, geology, hydrology, tree cover, access, and location, and shall be at a location convenient to the public to be served. Due consideration shall be given to the amount of open space, recreational, or common areas and facilities open to the public that are proposed for the subdivision.

Subd. 3. Cash In Lieu of Land. The Town may, at its option, require the subdivider to make a dedication of cash in lieu of part or all of the required land dedication. Cash dedication in lieu of land dedication shall be based on the fair market value of the land and shall equal 5% of the land being subdivided. Park dedication shall be paid by the subdivider prior to signing the final plat. If the subdivider objects to the Town's determination as to the value of the land, the value shall be determined either by negotiation between the Town and the subdivider or by the Town based on an independent appraisal of the market value of land in a same or similar land use category. If the Town elects to have an independent appraisal performed in order to resolve the objection, the subdivider shall be responsible for reimbursing the Town for the appraisal costs. The park dedication fees the Town collects shall be placed in its park fund and shall be

used for the acquisition and development, or improvement, of parks, recreational facilities, playgrounds, trails, wetlands, or open space as determined by the Town Board.

630.16. **Development Agreement.** The Review Authority may condition its approval of a minor subdivision, and shall condition the approval of a major subdivision, on the owner and subdivider entering into a development agreement with the Review Authority, or exclusively with the Town. The Town shall be a party to every development agreement for subdivisions occurring within the Town, regardless of which entity serves as the Review Authority. The development agreement must be in a form acceptable to the Review Authority and the Town Board.

630.17. **Required Improvements.** All required improvements shall be made by the subdivider in accordance with the plans and specifications approved by the Town Board and in accordance with the requirements of this Section. Required improvements shall be those improvements deemed necessary by the Town Board for completion of the plan and may include, but are not limited to, drainage improvements, grading, and road improvements. If the Town Board is not the Review Authority, it shall consult with the Review Authority regarding the required improvements. All improvements must be approved by the Town Engineer who shall be responsible only to the Town Board. The Town Board may, upon the request of the subdivider, allow the improvements of any part of the roads and utilities in a subdivision at one time provided, however, that such portion of the total required construction shall have been agreed to by the Town Board and the subdivider prior to approval of the final plat. Any agreement permitting partial improvements shall include a stipulation that no building permits will be requested or issued for lots in the plat except on lots having access to roads on which the required improvements have been completed or arranged for in accordance with the requirements of this Section.

630.18. **Costs, Development Agreement, and Financial Security.**

Subdivision 1. **Costs.** The required improvements to be furnished and installed by the subdivider are to be furnished and installed at the sole expense of the subdivider and at no expense to the Town or the Review Authority. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the Town Board may assess a portion of the cost of the improvement, representing the benefit to those lands outside the subdivision. In the alternative, the Town Board may choose to pay the increased cost, and assess for improvements when future development takes place. In such cases the subdivider will be required only to pay for such portions of the whole cost if said future development takes place, and in such case the subdivider will be required to pay for such portions of the whole cost of said improvements as will represent the benefit to the property within the subdivision.

Subd. 2. **Development Agreement.** If the subdivider has requested final approval of the final plat prior to installation of required improvements, the subdivider shall first enter into a development agreement requiring the Subdivider to furnish and construct said improvements at the Subdivider's expense and in accordance with plans and specifications to be approved by the Town Engineer and Town Board. If the Town Board is not the Review Authority, the Review

Authority shall be a party to the agreement. The agreement shall stipulate the type and extent of the improvements to be constructed, the cost of construction, the construction time schedule, the Town's authority to inspect the construction, the amount of the escrow deposit or performance bond to be furnished in accordance with subdivision 3 of this Subsection, and such other requirements as the Town Board deems appropriate.

Subd. 3. Financial Security. The subdivider shall be required to provide the Town financial security in the form of an escrow deposit or letter of credit in an amount equal to one and one-half (1-1/2) times the total estimated construction cost of the improvements as estimated by the Town Engineer, and including the cost of engineering and inspection by the Town. A letter of credit must be in a form, and from a bank, acceptable to the Town Board. Any such financial security shall accrue to the Town in case of default by the subdivider. In case of default, the Town shall appropriate any such financial security as may be needed to complete the improvements. The term of the financial security shall be specified by the Town. Escrow deposits shall be made with the Town Treasurer. The Town may agree in the development agreement to provide for the reduction of the amount of the financial security as work is completed. Nothing herein shall preclude the Town from making special assessments against benefited property for improvements made on it. The subdivider shall provide evidence that all construction costs have been paid and, further, all costs incurred by the Town shall be paid in full before release of the financial security by the Town Board.

630.19. Design Standards. The subdivider shall comply with the design standards in this Subsection.

- (a) Minimum right-of-way width shall be sixty-six (66) feet.
- (b) Street intersections, insofar as practical, shall be at right angles and in no case shall be at an angle of less than eighty (80) degrees.
- (c) Street jobs with center-line offsets of less than 125 feet shall be avoided.
- (d) Where horizontal street lines deflect from each other at one point more than ten (10) degrees, there shall be a connecting curve with a radius adequate to ensure a sight distance of not less than 500 feet, and of such greater radii as the Town Board or the Town Engineer may determine for special cases.
- (e) A tangent of at least 100 feet shall be introduced between reverse curves on streets.
- (f) Cul-de-sac streets designed to be so permanently, shall not be longer than 600 feet, measured along the center-line from the intersection of origin to the end of the right-of-way. Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way diameter of 120 feet and a minimum outside roadway diameter of 100 feet.

- (g) Half streets shall be prohibited except where the Town Board finds it to be practical to require the dedication of the other half when the adjoining property is subdivided. In such event, access to the half street shall be prohibited until such adjoining property is subdivided.
- (h) Street names or numbers shall be used and shall not duplicate or be similar to names of existing streets and they shall be subject to the approval of the Town Board and Stearns County.
- (i) Local roads and streets should be planned so as to discourage their use by non-local traffic. Dead-end roads and streets shall be prohibited, however cul-de-sacs will be permitted where topography or other conditions justify their use.
- (j) All proposed streets shall be offered for dedication. No private roads or streets shall be permitted.
- (k) The street arrangements shall not be such so as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
- (l) Subdivisions showing unplatted strips or private streets controlling access to public ways shall not receive approval.
- (m) Reserve strips controlling access to public streets are prohibited.
- (n) Blocks shall not exceed 1,320 feet in length measured along the greatest dimension of the enclosed block area.
- (o) Driveways shall be constructed from the pavement line to the property line. Where ditches parallel the road surface, driveways shall span the ditch and culvert of adequate size and length shall be installed by the subdivider to ensure proper drainage.
- (p) All utilities, whether public or private, shall be installed underground so as to enhance the visual appearance of the area.
- (q) The arrangement of streets shall conform as nearly as possible to the applicable standards. Except for permanent cul-de-sacs, roads and streets normally shall connect with roads and streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of roads and streets in the nearest subdivided tracts. The arrangement of streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to run-off of storm water, to public conveyance and safety, and in their appropriate relation to the proposed area to be served.

- (r) All roadways and other improvements shall be subject to review by both the Town Board and the Town Engineer. The Town Board shall not accept any road or street dedicated by private owners until all specifications have been met. Specifications are subject to any modifications deemed necessary by the Town Board in consultation with the Town Engineer. Additional requirements may be found during the course of construction.
- (s) Alleys are not permitted in residential areas unless it can be shown that their use is essential to a proper plan. Where alleys are used in a proposed commercial or industrial area, they shall not be less than 24 feet in width.
- (t) Pedestrian ways shall be prohibited except in cases where their use is deemed a necessity.
- (u) All platted lots shall conform to this Chapter.
- (v) Easements of at least 12 feet wide centered on lot lines shall be provided where necessary. Easements for storm sewers shall be at least 20 feet wide. They shall have continuity of alignment from block to block and at deflection points. Temporary construction easements may be required where necessary.
- (w) Lot remnants which are below the minimum lot size shall be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the subdivider can show plans for the future use of such remnants and how such remnant will be maintained.
- (x) The Town Board may require soil tests prior to the approval of any plat. Such test holes when ordered by the Town, shall be performed at the sole expense of the developer. The information disclosed shall be furnished to the Town Board together with a copy of the proposed plat showing the location of each test hole. The information required by the Town Board shall include a report as to the various types of soil encountered and their depths, the level of ground water, and any other information deemed pertinent. The number of test holes and their location on the property which is proposed to be platted shall be as directed by the Town Board or their authorized representative. Such soil tests shall be performed by a recognized engineering laboratory and shall include a report as to the safety and practicality of the use of the area for building construction, including the feasibility for installation of sewage facilities.
- (y) Headwalls at driveway culverts shall be prohibited. Driveway side slopes shall be a minimum of two and one half feet horizontal to one foot vertical.
- (z) These standards are not meant to be all-inclusive. Where the Town Board determines, that due to special conditions, additional requirements are needed, they may be imposed.

630.20. **Drainage Standards.** The subdivider shall comply with the drainage standards in this Subsection.

- (a) Where ditches are used for drainage, minimum depth shall be 2 feet and minimum ditch width shall be 3 feet.
- (b) Culverts shall be placed to maintain drainage as required. All culverts shall be steel or reinforced concrete. Minimum diameter shall be 15 inches. No plastic, fiberglass, or P.V.C. pipe shall be allowed. Minimum cover from top of culvert to top of base shall be 12 inches. Minimum culvert length shall be 2-1/2 feet each way from the driving surface or equal to the vertical difference between the driving surface or equal to the vertical difference between the driving surface and the invert of the culvert (whichever is greater). Any variance from these culvert standards must be specifically approved by the Town prior to construction.
- (c) It is the responsibility of the subdivider to maintain existing drainage courses in substantially the same manner as they existed prior to the construction. Further, the developer shall comply with all applicable federal, state, county, watershed, and any other local regulations, and shall obtain all necessary permits prior to beginning construction. When a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water courses, and with such further width or construction as may be determined necessary.
- (d) Surface water may not be carried across or around any intersection.
- (e) Drainage easements shall be furnished by the owner at no cost to the Town.
- (f) Where necessary, in the opinion of the Town Board and the Town Engineer, drainage will be accomplished through the construction of underground storm sewers complete with catch basins properly placed to catch surface water.
- (g) These standards are not meant to be all inclusive. Where the Town Board and the Town Engineer determine, that due to special conditions, additional requirements are needed, they shall be imposed.

630.21. **Street Standards.** The subdivider shall comply with the street standards in this Subsection.

- (a) Minimum roadway width shall be 30 feet. This shall consist of a minimum pavement width of 24 feet and a minimum compacted base width of 30 feet.
- (b) Minimum cleared right-of-way width of 66 feet to facilitate snow removal.



- (c) All roads shall be constructed so as to be free of flooding, have adequate drainage, and have no snow traps.
- (d) Minimum inslopes shall be no less than 3 feet horizontal in 1 foot vertical (3:1). In areas with fill depths over 3 feet, minimum slopes shall be no less than 4 feet horizontal in 1 foot vertical (4:1).
- (e) Streets shall be graded to the full width of the right-of-way in accordance with the grades submitted to and approved by the Town Board and the Town Engineer. All street grading and gravel base construction shall be in accordance with the plans and specifications approved by the Town Board and the Town Engineer. Grading shall be completed prior to the installation of applicable underground utilities, either private or public in nature. Gravel base construction shall be undertaken after the completion of the installation of underground utilities.
- (f) No trees shall be planted within the right-of-way, nor shall other structures be constructed within the right-of-way.
- (g) Roads and streets, as a minimum, shall be designed in accordance with Minnesota Department of Transportation Standard Specification for Construction (latest edition), and shall be a minimum of a 7-ton axle load. All pavements shall be plant-mixed bituminous and shall comply with all applicable MNDOT specifications. All pavement shall be paver placed in accordance with MNDOT specifications.
- (h) After placement of bituminous pavement, roadway shoulders shall be built up with Class 5 gravel to the same thickness as the bituminous pavement.
- (i) There shall be no extreme sharp curves, blind corners, or steep inclines.
- (j) The approach level of the roadway shall be no more than 12 inches below the center of the existing public road and shall have a minimum of a 50 foot level pad from the edge of the existing public road.
- (k) All finish grades shall be reasonable and justifiable. In no case shall grades be steeper than 8.5%. Wherever feasible street and road grades shall not exceed 7.5% and in no case shall they be less than 0.4%.
- (l) Grades shall be connected with vertical parabolic curves. Minimum length in feet of these curves shall be 30 times the algebraic difference in the percent of grade of the two adjacent slopes. This standard is based upon a design speed of 30 mph. Any increase in design speed shall be compensated for as according to the MNDOT Design Manual, latest edition.
- (m) All roadway devices shall be marked with the required traffic control devices and markings. Any expenses for this shall be the sole responsibility of the developer.

- (n) Roadway designs and pavement designs are based on areas which have good granular sub-grade material. Any other material will necessitate a change in the design. All improvements including, but not limited to roadways, shall be designed by a Registered Professional Engineer licensed under the laws of the State of Minnesota. All engineering fees are the sole responsibility of the developer.
- (o) The owner shall furnish all necessary slope easements at no cost to the Town.
- (p) These design and construction standards are not meant to be all-inclusive. Where the Town Board and/or the Town Engineer determine, that due to special conditions, additional requirements are needed, they shall be required.

## **Section 635 – Enforcement**

635.01. **Misdemeanor.** Any person who violates any of the provisions of this Chapter or who makes any false statements on any application shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. Criminal prosecution of a violation shall not bar the Town from also pursuing a civil remedy, just as pursuit of a civil remedy does not bar criminal prosecution of a violation.

635.02. **Failure to Obtain a Permit.** In the event any person commences any land use activity requiring a permit prior to the issuance of such permit or otherwise violates this Chapter, the Town, its building official, and attorney may issue a written cease and desist order, stop work order, corrective order, or similar order to prohibit continuation of the activity until the required permits are obtained or until the property is otherwise brought into compliance with this Chapter. If the required permits are not obtained, or if the work or use is not allowed by this Chapter, the person shall be ordered to permanently cease such activities. The order may require the person to restore the property including, but not limited to, the removal of all structures or buildings constructed in violation of the provisions of this Chapter.

635.03. **Remedies.** In the event any land is used or is proposed to be used in such a manner as to be in violation of this Chapter, or if any building, structure, alteration thereof or part thereof is, or is proposed to be, used or erected in violation of this Chapter, the Town may, in addition to issuing orders to prevent, abate, or correct a violation, seek an injunction, mandamus, abatement, or other appropriate civil and criminal actions as it determines appropriate to prevent, enjoin, correct, abate, or remove such unlawful use, construction, reconstruction, alteration, or maintenance. The Town Board shall determine whether to initiate a civil or criminal action regarding a violation. Upon the Town Board's decision to initiate a legal action, the Town's attorney shall be authorized to take such actions as may be necessary to carry out such enforcement action.

635.04. **Enforcement Costs.** In the event of a violation of this Chapter, the cost of prosecution may be added to the penalty as allowed by Minnesota Statutes, section 366.01, subdivision 10. Furthermore, the administrative and legal expenses incurred by the Town related to an enforcement action may be assessed by court order against the party found to have violated this Chapter. Upon court approval, the Town Clerk shall prepare a bill for the expenses incurred and shall mail a copy to the owner/violator by mail. The amount therein shall be immediately due and payable to the Town. Failure to pay any such amounts may result in them being certified and collected against the property as a service charge as provided in Minnesota Statutes, section 366.012, or may be collected by any other means available to the Town under law.